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COMMITTEE AGAINST TORTURE

Twentieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 336th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 15 May 1998, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.336/Add.1.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.98-16189 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Second periodic report of Israel (CAT/C/33/Add.3)

1. At the invitation of the Chairman, Mr. Baker, Mr. Shaffer and Mr. Galilee (Israel) took places at the Committee table.

2. Mr. BAKER (Israel) said he wished to stress that his Government, which took its obligations under the Convention very seriously, had always cooperated with the Committee, and hoped to conduct a candid, constructive dialogue during the consideration of the second report. When the previous reports had been submitted, the delegation of Israel had described the dilemma faced by that country, which must confront the terrorism that imperilled its security while respecting international human rights standards, among them in particular the provisions of the Convention. At the close of the consideration of the previous report, the Committee had acknowledged that dilemma, but had not, to the surprise of the Israeli Government, recognized a central component of the Israeli legal position, namely, that the interrogation procedures used to prevent acts of terrorism in no way constituted torture as defined by article 1 of the Convention or cruel, inhuman or degrading treatment within the meaning of article 16. That position derived from a legal interpretation of the Convention which would require, on the part of the members of the Committee, an in-depth analysis of the meaning of the terms used in the Convention and of the intentions of the States that had drafted it, as well as of the scope of articles 1 and 16. The conclusions and recommendations formulated by the Committee at the close of the consideration of the previous report suggested that no such in-depth analysis had been conducted. Any interpretation of interrogation procedures must take into account the restrictive scope of the prohibition set out in article 1, in particular since that definition included an important specific criterion, that of the severity of the pain or suffering. Every act or measure should be examined on its merits and in relation to the circumstances, and a sweeping generalized interpretation did not fulfil the requirements of the Convention. The same comment was applicable mutatis mutandis to the implementation of article 16. Since the Committee was not a political organ of the United Nations, but a specialized expert forum whose competence was recognized in a specific field, it should avoid taking generalized positions. The discussions that had taken place during the consideration of the previous report clearly demonstrated the need to study each interrogation procedure on its merits and not to make hasty generalizations. On the basis, for example, of allegations by non-governmental organizations, the Committee had determined that subjecting detainees to very loud music constituted a form of torture or cruel treatment, even though his delegation had explained that the volume was turned up high in order to prevent communication between detainees while under investigation. It was not a measure used to extract information or confessions, and it therefore did not fall under article 1. Before reaching its conclusions, had the Committee considered the criterion of severity of suffering set out in the Convention? The Committee had likewise determined that hooding detainees under special conditions was tantamount to torture, but had not inquired whether that practice was used to obtain information or

whether, as the Israeli delegation had explained, its purpose was to prevent detainees from communicating among themselves. The Committee had chosen to base its determination on allegations made by non-governmental organizations and disregard the State party's explanation, for reasons that were not detailed in the conclusions. He instanced another conclusion which had surprised the Israeli authorities: the Committee had determined that exposing detainees to "cold air to chill" constituted a violation of articles 1 and 16, although Israeli officials had consistently denied the use of such a procedure.

3. He wished to reiterate a statement made by the Israeli delegation during the eighteenth session, namely, that prohibition of torture formed part of Israeli law. Accordingly, officials who conducted interrogations were not authorized, and never had been authorized, to use torture, even in cases where the use of such procedures might have prevented terrible attacks. The use of cruel, inhuman or degrading procedures was likewise prohibited during interrogations. Nor had Israel ever claimed that the struggle against terrorism constituted an exceptional circumstance that justified the use of torture.

4. Both the report submitted to the Committee and the statement made by the Israeli delegation had described the circumstances under which the Landau Commission's guidelines authorized the use of "moderate physical pressure". In formulating those guidelines, the Landau Commission had taken into consideration international and regional human rights treaties as well as travaux préparatoires, with a view to ensuring that interrogation methods complied with international standards. The Committee's general determination to the effect that Israeli interrogation procedures constituted violations of articles 1 and 16 raised the question whether it had undertaken a close analysis of each of the acts attributed to the Israeli authorities. The question might also be asked whether the Committee had taken note of the paragraphs in the special report of 1997 (CAT/C/33/Add.2/Rev.1) that discussed the guidelines established in accordance with the criteria set out in the Landau report for the interrogation of suspects by the General Security Service (GSS). Those guidelines established that such pressure must never reach the level of physical torture or ill-treatment. It was of course possible that GSS officials might commit irregularities, but in that case they were punished by the authorities for breaking the law. It should be very clear that Israel neither permitted nor justified torture or cruel, inhuman or degrading treatment. Article 1 of the Convention implied that pressure that did not cause severe pain or suffering did not constitute torture. Article 16 likewise implied that certain forms of pressure could not be considered cruel, inhuman or degrading treatment.

5. Confronted with the persistence of terrorism, the Israeli authorities had no choice but to continue adopting effective investigative methods in an attempt to prevent or at least limit such attacks. In that regard, the situation showed little improvement. Since 1993, the year the Oslo agreement had been signed, 244 Israelis had been killed. During the past year alone, 60 terrorist acts had been committed in Israel, leaving 27 people dead and 340 wounded. It must be realized that the number of victims would be much higher if the Security Service had not managed to prevent certain attacks. In 1997, three major terrorist cells had been exposed and dismantled; they had

planned murders, kidnappings, bus hijackings, attacks in public places, and other acts. Through the use of moderate physical pressure - never torture or cruel, inhuman or degrading treatment - bloodbaths had been avoided.

6. Although its views apparently differed from those of the Committee, the Israeli Government had nevertheless taken careful note of its recommendations, as some developments showed. For example, since the previous May, the number of complaints lodged by detainees who had undergone interrogations had significantly diminished. Furthermore, several legal and administrative remedies, described in detail in the special report published as CAT/C/33/Add.2/Rev.1, were available to detainees. During the consideration of that report, the Israeli delegation had explained the nature of the procedure for judicial review of interrogation procedures, which allowed all detainees who deemed that they had not been properly treated during an interrogation to submit a petition directly and immediately to the Supreme Court sitting as a High Court of Justice. That right applied to all persons, whether or not Israeli, including residents of the territories. Since apparently no such remedy existed in any other country, the Israeli authorities had been surprised that the Committee had not mentioned it in its conclusions as one of the positive developments.

7. The substance of the discussions with the Committee during the presentation of the previous report had been brought to the attention of the executive authorities and the judiciary. The High Court of Justice had scheduled for discussion a number of general petitions concerning interrogation procedures and had arranged that, exceptionally, nine judges would preside over the hearing. That showed that the Court intended to give particular prominence to its decisions in that domain. Contrary to the claims of non-governmental organizations, the High Court of Justice had never condoned or permitted torture. The full proceedings in the Hamdan case had been recounted in detail in the previous report; it should be remembered that the Supreme Court had determined that although maintaining the interim injunction was unjustifiable, the lifting of that injunction did not authorize the use against the petitioner of interrogation procedures that violated the law.

8. With regard to new developments in the legislative sphere, the second periodic report described in detail the General Security Service Bill; having first been considered by the Knesset, it was now being studied by a parliamentary committee. It provided for the tightening of checks and controls over the activities of the General Security Service, which would be monitored not only by a service comptroller and a State Comptroller, but also by a ministerial committee and a parliamentary committee to which reports would be submitted every three months. Other legislative reforms should also be pointed out: following up the enactment of the Basic Law: Human Dignity and Liberty, several provisions regarding arrest and detention had been adopted, among them the standing orders for the police and prisons service and the Criminal Procedure (Enforcement Powers - Arrest and Detention) Law of 1996, which ensured maximum protection for the rights and liberties of a person throughout the arrest and detention process. Meanwhile, the Kremnitzer Committee had published a report containing specific recommendations for the prevention of acts of violence by police personnel and recommending institutional as well as educational and disciplinary measures to minimize

police brutality. Various mechanisms for reviewing the actions of law enforcement officials had been created, and were described in detail in the report. The Police, the Prisons Service, the General Security Service and the Defence Forces were all subject to administrative or legal procedures.

9. In conclusion, it should be remembered that all Israel's reports, together with the statements of the Israeli delegation before the Committee, should be considered as an integrated whole. He hoped that the members of the Committee would give due consideration to all those elements, and would focus on the legal and practical dilemma faced by Israel in its implementation of the Convention. He was confident that an exchange of views with the Committee and a constructive analysis conducted by the Committee in good faith would assist the Israeli authorities in their efforts to achieve the goals of the Convention.

10. The CHAIRMAN (Rapporteur for Israel) thanked Mr. Baker for his introductory statement. Referring to the consideration of Israel's previous report, he recalled that the Committee had asked the delegation a number of specific questions which it had refused to answer, invoking security reasons; that was what had prompted the Committee to base its determinations on the reports of non-governmental organizations. Speaking in his capacity as Rapporteur, he observed that the second periodic report of Israel (CAT/C/33/Add.3), due in November 1996, had not been received until 6 March 1998. In its conclusions on the special report dated 18 February 1996 (CAT/C/33/Add.2/Rev.1), the Committee had asked Israel to submit, along with its second periodic report, information concerning any measures it had taken in response to the Committee's conclusions and recommendations, for consideration during the November 1997 session.

11. The Committee took note with satisfaction of the reforms set forth in the Basic Law: Human Dignity and Liberty, the General Security Service Bill, the proposals of the Kremnitzer Committee, the creation of a national public defender's office, and the recommendations of the Goldberg Committee. With regard to the Basic Law: Human Dignity and Liberty, he noted that two derogations were possible, and asked for clarifications on that matter, in particular, whether a state of emergency had been put into effect since the founding of the State of Israel. He would also like clarifications on the rules of evidence, since paragraph 89 of the report referred to "recommendations aimed at ensuring that false confessions were not extracted by illegal means". He would like to know what was meant, in paragraph 91, by the words "real violence". An explanation of the last clause, "independent evidence of guilt that was discovered by an inadmissible confession will still be admissible", would also be welcome. Although the information provided concerning the reform of the General Security Service was indeed interesting, the question arose whether a security official who acted in conformity with the law could himself be held accountable. It would also be useful to know the nature and scope of administrative detention in Israel, in the occupied territories and perhaps in South Lebanon, the legal basis for that administrative measure and its maximum term. Could a suspect be detained incommunicado, and for how long? Was it true that a Lebanese detainee had been held for 11 years without being charged? According to information available to the Committee, that detainee had been arrested not because he had constituted a danger to the security of the State but as a bargaining counter.

That case, if true, required an explanation under article 16 of the Convention. The Committee would like to know how many persons were currently held in administrative detention, to what population group they belonged, and whether they had access to a judicial review procedure, and in particular recourse to habeas corpus.

12. Paragraphs 58 and 64 of the report seemed to contain contradictory information, stating on the one hand that, on the arrest of any person, notification must be made to a relative or to another person close to the detainee, and on the other that until recently the law had not granted prisoners and detainees the right to telephone. Since the enactment of the Criminal Procedure Law of 1996, did detainees have the right to use a telephone immediately after their arrest? Did access to a telephone depend on whether or not the detainee had been charged?

13. Returning to the matter of the severity of the pain, he said that the Committee was not satisfied with being assured by a country delegation that acts inflicted on a person never caused pain severe enough to constitute torture. It was the Committee which had to make up its mind on that question, and therein lay the whole problem: during the consideration of the previous report, the delegation had refused, for security reasons, to indicate what methods were used. The Committee had consequently been obliged to base its determinations on testimony gathered from persons who had undergone interrogation, and on reports drawn up by NGOs. The Committee was now in a position to declare with full knowledge of the facts, on the basis of its discussions with the Israeli delegation and a number of decisions handed down in Israel, that some interrogation procedures used by the General Security Service, such as hooding prisoners, depriving them of sleep by exposing them to loud music, restraining them in painful positions, and shaking them violently, indeed violated articles 16 and 2 of the Convention, a fortiori if those methods were used in combination. The Committee had also learned that the use of those methods was not unusual, nor prompted by necessity in isolated cases, since the Israeli authorities did not consider them to be cruel, inhuman or degrading treatment within the meaning of article 16 of the Convention. That, therefore, was the new starting point for the continuation of the dialogue between the Israeli delegation and the Committee.

14. Mr. SØRENSEN (Alternate Rapporteur for Israel) said his first concern would be the implementation of article 10 of the Convention (paragraphs 28 to 31 of the report). Regarding police officials, he inquired whether the content of article 1 was taught to them during training and whether investigatory methods were taught in entry-level or only in continuing education courses. What training was provided to members of the General Security Service?

15. It would be useful to know how prison guards were recruited, what prior education they had received, and whether they were given general human rights training. The education of doctors was no less important, since unfortunately some of them helped to "refine" torture methods used during interrogations. They must also learn to recognize possible signs or after-effects of torture on the bodies of their patients.

16. The measures adopted by the Israeli authorities to implement the provisions of article 11 of the Convention, which provided that States parties should keep under systematic review interrogation rules, instructions, methods and practices, were described in detail in the report. Paragraph 33 indicated that the State Comptroller, in his conclusions on the activities of the GSS investigative unit from 1990 to 1992, had noted several instances of deviations from the Landau Commission's guidelines, and had recommended measures to ensure compliance. Could the Committee obtain a copy of that report? The same paragraph stated that the Comptroller's findings had not yet been made public; did that mean that they would be made so eventually? He reiterated the Committee's wish that the Landau Commission's secret guidelines should be made public.

17. Paragraphs 34, 35 and 36 of the report dealt with the ministerial reviews instituted in conformity with the recommendations of the Landau Commission and conducted periodically with regard to GSS interrogation guidelines. He found it somewhat surprising that the special Ministerial Committee should be headed by the Prime Minister, who probably had very little time to devote to that task. In accordance with the recommendations of the Ministerial Committee, new guidelines for GSS investigators had been published which clearly established the need to specify, in every case, the purpose and justification for the use of limited pressure. In his view, an investigator must find it very difficult to remain always within the law with regard to the methods used, since the guidelines were kept secret and also periodically revised. In that regard, the Committee would like to know by what procedure an investigator who had contravened those confidential guidelines could be summoned to appear before a court. It would also like an explanation concerning the use of "exceptional methods" in situations in which vital information was concealed. Paragraph 35 of the report also indicated that it was expressly forbidden to deny food or drink to suspects or to refuse them permission to go to the lavatory. If that was so, what about sleep deprivation?

18. With regard to the duration of solitary confinement, which according to paragraph 55 could be extended for additional periods up to a total of 14 days, he would like to know if that regime could be imposed on a detainee frequently - more specifically, whether it could be imposed every month.

19. Paragraph 58 indicated that upon the arrest of any person, notification must be made to a relative or other person close to the detainee regarding the fact of the arrest and the place of detention. Should it therefore be concluded that incommunicado detention did not exist? Did detainees have the right to communicate with a lawyer, and to be seen by a doctor of their choice, from the start of their detention? With regard to visiting rights, he would like to know the maximum length of a visit for convicted prisoners, since only one visit was authorized every two months.

20. Turning to the implementation of articles 12 and 13 of the Convention, he inquired whether complaints about mistreatment by GSS investigators, which were considered by the Department for Investigation of Police Personnel (DIPP), were reviewed by any other service before being submitted to DIPP.

The Committee would like to know how many members of the GSS had been brought to trial as a result of investigations, during 1995 and 1996, for example, whether they had been convicted, and the nature of the sentence.

21. With regard to article 14, clarifications would be useful concerning a new bill submitted to the Knesset whose effect would apparently be to restrict the possible grounds for compensation, and in particular to abolish it for victims suffering from a disability of less than 10 per cent; moreover, that provision would be retroactive. He wondered whether such a law would not be incompatible with the terms of article 14.

22. With regard to Israel's response to the conclusions and recommendations formulated by the Committee at its previous session (A/52/44, paragraphs 253 to 260), he would like to offer his point of view as a medical doctor who had been concerned, since 1984, with matters relating to torture, had examined many victims, and had visited police stations and prisons, including some where torture was practised. Since 1994, the Committee had maintained the view that the "Landau rules" could and probably would allow torture to be practised within the meaning of article 1 of the Convention. In 1997, the Committee had had to conclude that its fears had been well founded. It had, he must add, been wrong at that time to refer (in paragraph 257 of its annual report) solely to information from non-governmental organizations and to testimony from persons who had been interrogated, since the High Court had itself taken note, for example, of the use of sleep deprivation. High Court documents relating to the Ghanimat case (HCJ 3282/97) revealed that Mr. Ghanimat had been restrained in very painful positions for prolonged periods; a medical report addressed to the High Court by an eminent orthopaedist indicated that restraining him with his knees tightly bent had caused painful and disabling lesions. An internationally renowned neurologist who had also examined Mr. Ghanimat had certified that his allegations, to the effect that his hands and feet had been very tightly shackled, were corroborated by the medical examination which revealed a permanent local loss of sensation. Those forms of treatment fitted the three criteria set out in article 1 of the Convention: they undoubtedly caused severe suffering, they were intentionally inflicted (as recognized by the authorities themselves) for the purpose of obtaining information, and they were inflicted by public officials.

23. The Israeli authorities had given a reason for hooding detainees; but the fact remained that putting someone's head in a bag for six hours on end, as had been the case with Mr. Ghanimat, inflicted, from a medical point of view, severe mental suffering, and there were other ways of keeping a detainee from communicating with others. That treatment had been inflicted on him intentionally, for the purpose of quickly extorting a confession. The report under consideration showed that Mr. Saba had been subjected to the same treatment.

24. In paragraph 49 of the report and elsewhere, the Israeli Government invoked necessity to justify depriving a detainee of sleep. But torture was not authorized even in emergency situations; Mr. Ghanimat had been permitted to sleep for about one hour in 24 over the course of 4 days, which from a medical point of view constituted torture. In another case brought before the High Court (HCJ 2210/96), the detainee had been kept awake for 39 hours

followed by 5 hours' rest, then for 47 hours with 2 hours' rest, and then for 22 hours with 5 hours' rest, 47 hours with 5 hours' rest, 46 hours with 5 hours' rest, and finally 48 hours with 6 hours' rest. The situation had perhaps been urgent, but that unquestionably constituted mental torture.

25. Wholly reliable sources indicated that in some 6,000 to 8,000 cases the GSS had resorted to the procedure that consisted in violently shaking the detainee. He had spoken of that practice at length during the eighteenth session, demonstrating that such treatment caused severe suffering and was of course inflicted intentionally and for the purpose of obtaining information. That being so, and contrary to what was said in paragraph 49 of the report, the measures in question were indeed forms of torture. The question of the threshold beyond which suffering could be considered severe had also been discussed in 1997, and in the view of many medical experts of the highest level of competence that threshold had been passed in all the cases in question. The Israeli authorities acknowledged that such procedures were inflicted intentionally by public officials with a view to obtaining information; once again, there was no doubt that those cases fell within the meaning of article 1 of the Convention. The methods in question were used by members of the GSS, who were undoubtedly normal human beings but worked under terrible conditions in which attacks were planned, secret instructions were continually modified, and they were expected to comply with the law while at the same time being officially or unofficially authorized to violate it in order to get results. He understood their difficult situation and fully recognized that they were fighting against the abominable phenomenon of terrorism, but they must do so by legitimate means and not by torture.

26. The first written law of Denmark, his country of nationality, had proclaimed as early as 1241 that the country would be built on the rule of law. Israel, a country celebrating its fiftieth anniversary and still being built, should not put its officials in such a terrible situation. Political problems should be resolved not by torture but by negotiation. The year 1998 was also the fiftieth anniversary of the Universal Declaration of Human Rights, and in December 1997 the General Assembly had decided by consensus to declare 26 June the International Day in Support of Victims of Torture. To mark those three events, Israel should consider making the declarations provided for under articles 21 and 22 of the Convention, withdrawing its reservation to article 20, and making a larger contribution to the United Nations Voluntary Fund for Victims of Torture. During the Second World War, he had sympathized with the plight of the Jews and tried to help ease their sufferings; since that time, the Danish people had cared deeply about their fate. He therefore continued to hope that Israel would implement the Committee's recommendations.

27. The CHAIRMAN, speaking in his capacity as Rapporteur for Israel, said he wished to raise a different kind of question. Israel apparently applied a dualistic system, which required a legislative enactment for an international instrument to be effectively incorporated into domestic law, a step which had not been taken in the case of the Convention against Torture. That was surely the reason why so many interim injunction applications, addressed to the Supreme Court sitting as a High Court on behalf of detainees requesting that the GSS should not be permitted to apply the "Landau rules" to them, had prompted decisions based on the legal notion of state of necessity, one of the

arguments often invoked being that since the "Landau rules" themselves were based on the notion of necessity, the application of those rules by the GSS was thereby justified. In that context, he would like to know whether under Israeli law the "moderate physical pressure" which those rules permitted was considered as justifiable assault or as a practice wholly in conformity with the law. Centuries had passed since the poet Milton had written, "Necessity is the tyrant's plea".

28. Mr. EL MASRY said that he was glad the matter of necessity had been raised, and that he was quite unconvinced by the explanations offered. If Israel no longer based its use of the "Landau rules" on the principle of necessity, how did it justify it? What could be the rationale for permitting investigators to violate the Penal Law by, for example, shaking someone to death? That was a crucial and very troubling matter, since torture was therefore in fact part of the Israeli legal arsenal and had been codified as a legal practice.

29. Paragraph 5 of the report stated that laws which ran counter to the provisions of the Basic Law prohibiting violation of the life, body or dignity of persons but had been enacted prior to it could not be deemed void. It was nevertheless stated that such laws would be interpreted in accordance with those fundamental principles: was that merely the view of the author of the report, or was it a binding rule? For example, was the notorious practice of destroying the homes of the families of persons accused of a terrorist act, which was an extrajudicial punishment and a dissuasive measure, considered a violation of the Basic Law?

30. The revisions to the Penal Law described in paragraph 27 of the report could not have an effect on the practice of torture for so long as it was not classified as a separate, punishable crime. For so long as the current interrogation practices enjoyed official support, such provisions would not make it possible either to dissuade or to punish the torturers. Furthermore, paragraphs 32 to 51 of the report described a system that had been set in place to allow Parliament and the Government to review interrogation practices. Had that mechanism ever questioned the legality and legitimacy of the interrogation procedures, or was it limited to reviewing deviations from the Landau Commission's guidelines?

31. Paragraph 75 of the report provided a great deal of statistical data. He would like to know whether any GSS officials had yet been prosecuted for offences committed in the performance of their functions. In 1995, Abd al-Samad Harizat had died after having been violently shaken by a GSS official: had criminal proceedings been taken against him, and had the prohibition of that "torture method" been considered? Were detainees given a medical examination before being subjected to that treatment, and was the interrogation conducted in the presence of a medical doctor?

32. With regard to the treatment of detainees and prisoners (paragraphs 52 to 69 of the report), he understood that Palestinian detainees were deprived of certain rights: did detainees who were in the hands of the GSS enjoy the right to have visitors, to receive mail, to use a telephone, and to meet with a lawyer? According to some sources, Palestinians detained in those occupied territories subject to military authority were sometimes permitted no contact

with the outside world for as long as 90 days, which, if that information was correct, was far too long. He would therefore like to know the real facts of the situation and have detailed information about the living conditions of Palestinian detainees, which according to some sources were deplorable.

33. Mr. Sørensen had mentioned the fiftieth anniversary of the creation of Israel; 1998 also marked the fiftieth anniversary of the Nakba, the great Palestinian "catastrophe", showing the truth of the saying that one man's joy was another man's sorrow. For half a century, tens of thousands of uprooted people had lived in abominable conditions without the right to return home, which constituted a flagrant violation of their human rights and a continual torture.

34. The CHAIRMAN remarked that that was a very broad use of the concept of torture.

35. Mr. CAMARA associated himself with the questions raised by the Rapporteur and the Alternate Rapporteur. With regard to the matter of the admissibility of evidence, he inquired what had been the practical outcome of the recommendations of the Goldberg Committee. Furthermore, he would like to know the status of the amendment to the Evidence Ordonnance [New Version], 1971, that was being prepared by the Ministry of Justice, according to paragraph 90. Had a draft law to that effect been tabled, and if so, on what date? At what stage of consideration was it? He would also like clarifications concerning the last sentence in the report, which stated that independent evidence of guilt that was discovered by an inadmissible confession was still admissible.

36. Mr. MAVROMMATIS congratulated the State party on the occasion of the fiftieth anniversary of its independence, and offered his best wishes for peace in that region.

37. The State party's introductory statement presented a large number of clarifications concerning both the previous report and the report under consideration. With regard to the argument invoking a situation of necessity, he reiterated his view that nothing could justify torture or maltreatment. The Committee was aware of the difficulties faced by the State party owing to the violence and terrorism directed against it, which all agreed in condemning. However, while the State party could and must take measures to fight terrorism and protect itself therefrom, it must do so without resorting to methods which, by consenting to become a party to the Convention against Torture, it had pledged itself not to use. Resorting to the use of force and to practices that were prohibited both by the Convention against Torture and by the International Covenant on Civil and Political Rights would lead nowhere.

38. Under the current circumstances, consideration should perhaps be given to requiring the routine presence of a judge during interrogations. He would like to know how interrogations were conducted; once force was resorted to, the burden of proof fell upon those whose practices were challenged, not on those who complained of the methods used.

39. He was pleased that the State party had agreed to move forward the date of the consideration of its second periodic report; he was confident that the State party would accord attention to the Committee's observations, and that the dialogue could prove fruitful. He urged the State party to make the declaration provided under article 22 of the Convention, which would be one of the best ways of showing that it was committed to transparency and rejected the use of illegal methods.

40. Referring to article 4 of the Convention, he noted that the death penalty or a mandatory life sentence could be applied which would exclude the possibility of appeal; clarifications on that matter would be welcome.

41. He welcomed the very detailed statistical information. In paragraph 82 of the report, he noted a disparity between the number of complaints filed for maltreatment on the part of the GSS and the number of times that proceedings had led to penal sanction. Lastly, with regard to article 15, he was disturbed to learn that independent evidence of guilt that was discovered by an inadmissible confession was still admissible.

42. Mr. YAKOVLEV said he was disturbed that the Israeli delegation had, in its introduction, broached the notion of the severity of any suffering inflicted. Within the context of articles 1 and 16 of the Convention, the notion of relativity in a matter of principle opened the door to excesses of every kind.

43. The CHAIRMAN invited the delegation to reply to the Committee's questions at the next meeting.

44. The Israeli delegation withdrew.

The first part (public) of the meeting rose at 12.30 a.m.

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COMMITTEE AGAINST TORTURE

Twentieth session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 337th MEETING

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on Friday, 15 May 1998, at 3 p.m.

Chairman: Mr. BURNS

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GE.98-16229 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Second periodic report of Israel (continued) (CAT/C/33/Add.3)

1. At the invitation of the Chairman, the members of the delegation of Israel resumed their places at the Committee table.

2. Mr. SHAFFER (Israel), replying to the questions raised by members of the Committee at the 336th meeting, said that, like other Constitutions, the Basic Law: Human Dignity and Liberty, left it to the Constitutional Court to determine whether it was breached by a specific law. The judicial review was currently being conducted by the High Court of Justice, in accordance with the Basic Law, although it was true that a declaration of a state of emergency had been in effect since 1948. Under the proposed amendment to the Evidence Ordinance, "independent evidence of guilt of the accused unearthed as a result of the admission obtained through torture shall not be banned, even though the admission itself shall be disallowed as evidence". Thus, for example, if, in an admission obtained by torture, the accused told where a gun was hidden and said that a crime had been committed with it, then the finding of the gun in that place would not be admissible evidence. However, if the fingerprints of the accused were found on the gun, and they constituted independent evidence of his guilt, then they would be admissible evidence against him. Under the present law, an admission during an interrogation could form the basis for a conviction, provided there existed an additional element supporting its credibility. That requirement, deriving from the case law, was meant to prevent reliance on false admissions, made after the use of banned measures, or from the personal motives of the accused.

3. In that context, regarding the education of the police and the nature of the interrogation process in Israel, he quoted from the Landau report, which stated that General Security Service (GSS) personnel interrogated the accused on the interrogation premises when the main object was to induce him to show readiness to give information and in the process admit to the act attributed to him. Once that stage had been completed successfully and the suspect was actually ready to confess, he was handed over to a police investigator, who took down his confession in accordance with the law. The confession was subsequently presented in court by the policeman who had taken it down and who appeared as a witness for the prosecution.

4. Since police officers were not authorized to exercise any physical pressure, the proposed amendment was sufficient for educating police; the GSS was another matter, but it had nothing to do with the criminal process or the amendment to the Evidence Ordinance.

5. The word "real" ("real violence") in paragraph 91 of the report (CAT/C/33/Add.3) was a mistranslation of the Hebrew word mamash; in any case, the wording was only a draft and would presumably be improved during the legislative process. As to the personal responsibility of GSS personnel, according to section 17 of the proposed General Security Service Law 1998, "An employee of the Service or a person acting on behalf of the Service shall not

bear criminal liability for an act or failure to act which he committed in good faith and reasonably in the framework of and for the purpose of carrying out the duties of his position." Such a provision was common where public servants were concerned; he saw no contradiction between it and the Convention.

6. The powers of administrative detention that had been a part of Israeli law since the British mandate had been abrogated in 1980 with the enactment of the Emergency Powers (Detention) Regulations, according to which administrative detainees must be brought before a judge for judicial review within 48 hours. In the territories, where Israeli law did not apply, military law held that administrative detention was possible only if the commander had evidence that it was crucial for the security of the area. Appeal could be made to the Military Appeal Judicial Board, and later to the High Court of Justice. The maximum period of detention was six months, and only in very few cases had it been extended beyond that for a second or third six-month period. Over the past few months, some of the longest-serving detainees had been released.

7. Detainees held in administrative detention under military law were not kept incommunicado. The question of the Lebanese detainees was currently pending before the High Court in a special enlarged forum, following the initial decision by the three-judge panel. In rare cases, persons who had served out their criminal sentences were held in administrative detention, but that was done on the basis not of the facts that had brought about their punishment, but of evidence presented to the military commander which showed that the person constituted a danger to the area. Habeas corpus procedures were always available in Israel, including to administrative detainees. Whenever anyone was arrested, with no exception, the family was notified. Detainees were generally not permitted to use a telephone while under GSS investigation; no contact between the individual being interrogated and other persons was allowed at that stage.

8. The principles of the Convention were part of the curriculum at the Police Academy. Police personnel were not authorized to apply any physical pressure to detainees, and therefore education on the Convention was directed more towards GSS personnel. Very little discretion was accorded to GSS personnel with regard to the degree of severity applied in any case, which was precisely why the Landau Commission had set out very specific instructions, according to which the authority to approve the application of moderate pressure was given to senior GSS officers, as stated in paragraph 35. There was therefore no danger of the "reasonable interrogator" discretion being used, as mentioned by Mr. Yakovlev.

9. As to publication of the confidential part of the Landau guidelines, it was vital that the State should maintain the secrecy of the GSS interrogation procedures, as disclosure would undermine the interrogations themselves and obstruct the result they were designed to achieve: the prevention of terrorist attacks. Some terrorist organizations actually prepared their members for the eventuality of arrest and interrogation, and disclosing the detailed procedures would assist them in that. In principle, there was no obligation on any State to make public the working methods of its law enforcement agencies, and he did not know of any country that had done so; nor

did the Convention set out such a requirement, so he could not see how such a recommendation reasonably came under Israel's duties pursuant to the Convention. As he had said, publication could harm the efficiency of the law enforcement agencies; the uncertainty regarding investigation practices was a weapon in the psychological battle against terrorism.

10. Even so, many allegations had been made public with regard to interrogation methods, and Israel often chose neither to confirm nor to deny them in order to maintain as much as possible the efficacy of interrogations. The guidelines on GSS procedures were not kept secret within the Service, however; on the contrary, they existed in the form of detailed instructions to GSS personnel.

11. On the question of necessity, since any physical pressure was by Israeli law a criminal offence, the Landau guidelines resorted to the "necessity" defence in order to justify moderate pressure when it was applied. Israel did not resort to the claim of necessity in the context of the Convention, since torture was not permitted.

12. Israel shared Mr. Sørensen's views on the importance of having appropriately trained medical staff in attendance during interrogation, and accordingly since 1997-1998 doctors had been present in the interrogation facilities and available 24 hours a day. The Subcommittee of the Knesset Defence and Foreign Affairs Committee had decided not to publish the findings of the State Comptroller (paragraph 33 of the report), as was within its authority; that decision had been challenged before the High Court of Justice, and the case was still pending.

13. Regarding the efficiency of the work of the Ministerial Committee headed by the Prime Minister, because of the importance of the subject of interrogation procedures and the difficult legal questions it raised, it was necessary that the highest level of Government authorities should take the decision and bear the responsibility. Thus, despite their other involvements, the Prime Minister himself and other ministers were regularly briefed on the issue. The reference in paragraph 35 to subjecting persons to extreme temperatures "for prolonged periods" was misleading; it was a quotation from an allegation denied by the Government. No one was subjected to any extreme temperatures other than those caused in Israel by "El Niño" and other natural phenomena.

14. Regarding the question of solitary confinement referred to in paragraph 56, only 14 days were allowed, and he knew of no deviation from that rule. In any case, an immediate judicial appeal could be lodged before the District Court. He also knew of no complaints about the length of family visits. As stated in paragraph 61, administrative detainees could receive visitors every two weeks, not every two months. There was no screening of complaints made to the Department for Investigation of Police Personnel (DIPP). He had no exact details concerning disciplinary actions against GSS personnel, but would point out in answer to Mr. Mavrommatis that the low percentage of justified complaints was not surprising: members of terrorist groups interrogated by the GSS were highly motivated ideologically and generally made false accusations as part of their struggle against Israel. Many of the allegations made by Mr. Ghanimat before the High Court had not

even been repeated by him when interrogated by the DIPP or when he had had the legal opportunity to do so. From that experience the Government had learned that terrorists did not tell the truth and made exaggerated assertions about their interrogations.

15. As to compensation, the draft bill dealt with a completely different subject, namely, the intifada, not with indemnification for injuries sustained during interrogation. There were court cases currently pending on such claims for damages. With respect to the specific case of Mr. Ghanimat, No. 3282/97, as the High Court had ordered, the DIPP had investigated the allegations. In response to questions raised concerning the procedure of prolonged cuffing, the GSS Interrogation Department had issued special directives both to the police personnel and to its own interrogators regarding the manner of cuffing with the aim of preventing injury to detainees. Sweatbands were to be used in every case where marks or grazing were seen to be caused by cuffing, and wide leg cuffings or handcuffings for detainees of heavier build or who had suffered injuries caused by the cuffs. In cases of exceptional sensitivity, the edges of the handcuffs were filed smooth to prevent any harm to the wrists. Those solutions, however, had proved not to be sufficient in exceptional cases, such as that of Mr. Ghanimat. It had been made clear during the investigation of his complaint that prolonged cuffing and leaning against a rough wall might cause an injury. The Government viewed the case as an exception, and had taken steps to prevent the recurrence of such incidents.

16. As to the hooding and the music, he referred to High Court decision No. 3124/1996 on the case of Khader Mubarak, which stated: "... the primary function of the head covering is to prevent the interrogatee, while awaiting his interrogation, from identifying other interrogatees the identification of whom could harm the interrogation or cause other security damage. We are satisfied that this measure is used in a reasonable manner for the purpose of the interrogation and that it does not prevent the interrogatee from breathing properly or from having adequate ventilation and it does not cause suffering that amounts to torture either in purpose or in actual practice". In connection with the petitioner's statement that very loud music was played while detainees awaited interrogation, such music was intended to prevent them from communicating with one another and was also heard by everyone in the vicinity, including the security guards in the room. The court had accordingly seen no reason to issue an interim injunction.

17. As to sleep deprivation, he referred to the case of Mr. Algazal, No. 2210/96 (para. 51), in which, after the court had issued an interim injunction, no further moderate physical pressure had been applied, which demonstrated the important role played by the High Court of Justice. With regard to the exact number of hours of sleep Mr. Algazal had been permitted, the Government did not wish to conduct an inquiry pursuant to article 20 or 22 of the Convention. The word "rest" meant total rest in the cell, with absolutely no interference. During waiting periods, the detainee commonly dozed, which was not full sleep but must nonetheless be taken into account; the Government therefore questioned Mr. Sørensen's assumption of "mental torture" in that matter. As to shaking, the numbers quoted from Prime Minister Rabin referred to periods of a few years earlier. He would not go into details about the present year, for reasons concerned with the secrecy of the regulations, but there had been only one complaint of alleged shaking,

and no contrary allegations had been made by the non-governmental organizations (NGOs) since the State party's previous report. The present situation was totally different from that described by Mr. Rabin.

18. The CHAIRMAN repeated his earlier question regarding the claim that some Lebanese had been held for a total of 11 years in administrative detention, which contradicted the Israeli delegation's reply that administrative detention could not exceed six months with very rare exceptions. The Committee had received information that Palestinians had been jailed for 6 years and Lebanese for 11 years, allegedly as bargaining counters, which seemed a clear violation of article 16.

19. Mr. MAVROMMATIS said that it was not acceptable that the Israeli delegation should argue the need to observe secrecy in Israel's counter-terrorist activities as a justification for withholding answers to questions from the Committee. He appealed for closer cooperation.

20. Mr. BAKER (Israel) confirmed that administrative detention was limited to a period of six months, extendable by additional periods of six months. His delegation had not denied that, in some cases, administrative detention might have totaled periods of, for instance, 6 years or 11 years. On the subject of the Lebanese detainees, Mr. Shaffer had earlier referred to the Supreme Court judgement which was under review by an enlarged panel. More generally, administrative detention had been used, in the territories entered by Israel in 1967, in a manner that conformed with the provisions of the Fourth Geneva Convention, and pursuant to the provisions of the British emergency regulations that had been in force since 1945. Civil law did not apply in those territories, and thus a decision to impose administrative detention was taken by the military commander, but could be reviewed up to the level of the Supreme Court, under a procedure that had existed since 1967. Therefore, Israel did not share the view that administrative detention violated article 16 of the Convention. Any request for extension was thoroughly reviewed and detainees could appeal against such decisions. The measure was necessitated by the situation prevailing in the territories in question, as a means whereby a democratic society founded on the rule of law sought to contend with a tragic dilemma.

21. Mr. SØRENSEN asked whether it was true that foreign nationals had been held as bargaining counters in exchange for Israeli soldiers. If so, would it not constitute a breach of article 16?

22. Mr. BAKER said that the reason why the case in question was before the extended panel of the Supreme Court was that others in Israel shared Mr. Sørensen's view and had lodged an appeal. It would be gratifying to see similar procedures functioning in Israel's neighbour countries. The Committee would be informed of the outcome.

23. The CHAIRMAN thanked the delegation of Israel for the very frank way in which it had responded to the Committee's questions.

The public part of the meeting rose at 3.50 p.m.

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COMMITTEE AGAINST TORTURE

Twentieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 338th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 18 May 1998, at 10 a.m.

Chairman: Mr. BURNS

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ORGANIZATIONAL AND OTHER MATTERS (continued)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Initial report of Sri Lanka

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.338/Add.1.

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GE.98-16251 (E)

The meeting was called to order at 10.10 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

1. The CHAIRMAN noted that reports submitted to the Committee had shown in a number of cases that ill-treatment affected women differently from men, and that the treatment of certain categories of children, especially street children, came within the scope of article 1 or article 16. The Committee had been also troubled by some cases of discrimination, although they did not, strictly speaking, come within the scope of article 1. But the Committee tended to gloss over such issues. It might therefore wish to consider appointing three rapporteurs to deal, respectively, with specific problems relating to the status of women, the treatment of children and the question of discrimination. They would examine States parties' reports from those three separate angles in order to draw the Committee's attention to points that might otherwise be overlooked. He invited the members of the Committee to consider the suggestion and possibly offer their services for such duties.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Initial report of Sri Lanka (CAT/C/28/Add.3)

2. At the invitation of the Chairman, Mr. Palihakkara, Mr. Yapa, Mr. Grero and Mr. Arachichi (Sri Lanka) took places at the Committee table.

3. The CHAIRMAN welcomed the delegation and invited it to introduce the initial report of Sri Lanka (CAT/C/28/Add.3).

4. Mr. PALIHAKKARA (Sri Lanka) said that Sri Lanka was a party to 13 international human rights instruments, including the Convention against Torture, and was firmly committed to the promotion and protection of human rights despite all the difficulties confronting the authorities in their struggle to stamp out the terrorist threat which had been plaguing Sri Lanka for so many years. His Government was convinced that in order to cope with such problems, they had to be discussed openly and democratically. Accordingly, it attached great importance to any exchanges it might have with international human rights treaty monitoring bodies among others. It was also awaiting with interest the views of the Committee against Torture on its initial report as well as any suggestions and criticisms the Committee might make to help Sri Lanka improve the procedures it had adopted to give effect to the Convention against Torture.

5. The principle of protection against ill-treatment, embodied in Sri Lanka's legislation since 1883, had been elaborated and consolidated by the 1972 and 1978 Constitutions. In 1982, Sri Lanka had deposited with the United Nations Secretary-General the Unilateral Declaration against Torture, which had been based on the Declaration adopted by the United Nations General Assembly in 1975. In January 1994, it had acceded to the Convention against Torture, which had entered into force one month later, and had incorporated it into domestic legislation in November of that year by Act No. 22 of 1994, thereby strengthening the body of legal measures being

used to curb torture. In point of fact, it seemed that the definition of torture in Sri Lanka's legislation was broader than that contained in the Convention.

6. In the report under consideration, the Sri Lankan authorities had sought to highlight the various elements of the above-mentioned legislation, stressing in particular the action taken to combat acts contrary to the provisions of the law and the institutions set up to enforce it, as well as the international cooperation on which they had drawn to help them in their work. They were aware that it was not enough to adopt laws and regulations to combat torture: legal principles must be translated into reality and backed by new legislative, judicial, administrative and other measures.

7. There had been reports of abuses committed by certain members of the security forces in the context of counter-terrorist activities. The same accusation had been levelled against members of the police. It was important to combat such practices, which were completely at variance with the code of conduct for law enforcement officials. His Government was confident that those difficulties could be overcome by Act No. 22 of 1994, which had increased the powers of prosecuting bodies to investigate and prosecute such cases.

8. Moreover, the new constitution being drafted would further strengthen provisions designed to combat acts of torture, inter alia by authorizing Sri Lankan courts to hear cases involving violations of the fundamental right of every individual not to be tortured or subjected to cruel, inhumane or degrading treatment or punishment. That right could not be restricted in any way. Arbitrary arrest, which usually prefigured acts of torture, would also be prohibited. Moreover, transparency would be ensured by the requirement that any arrests or detentions had to be reported to the proper authority in order to minimize any danger of torture. An important development was that the new constitution would institute the principle of litigation in the public interest, which could play a key role as a deterrent.

9. At the administrative level, the law enforcement agencies had devised various systems under which law enforcement officials at all levels as well as members of the security forces combating terrorist or subversive activities were required to report any arrests or detentions to their superiors and to notify next of kin. In that way, every detention was acknowledged and noted in a register. It had been found that that was the best way of preventing terrorists or individuals engaged in subversive activities from being tortured. Furthermore, officers had to report arrests within 48 hours to one of the 10 regional offices of the National Human Rights Commission. Lastly, a presidential directive dated 17 September 1997 had issued the security forces detailed instructions on the treatment of detainees. Wilful failure to report an arrest or detention was a criminal offence. The rank and file members of the army and police had been informed that any act of torture would be dealt with under Act No. 22 of 1994.

10. The report under consideration gave an account of the machinery set up to ensure compliance with the measures adopted to curb torture. For example, the National Human Rights Commission, an independent body created by an Act of Parliament in 1997, constantly monitored the security and welfare of

detainees, its members making unannounced visits to police stations and places of detention. The Commission's regional offices served as sources of information as well as a forum for handling complaints. The situation in prisons was also monitored by a large number of non-governmental and other organizations. In 1989, the International Committee of the Red Cross had been invited to open an office in the country, and its representatives enjoyed unrestricted access to all places of detention, where they could have confidential interviews with detainees; and they could also file reports on how detainees were treated and notify the competent authorities of any problems encountered.

11. Mr. MAVROMMATIS (Country Rapporteur for Sri Lanka) said that the initial report of Sri Lanka, although submitted more than two years late, was in keeping with the Committee's guidelines. However, the core document (HRI/CORE/1/Add.48) should probably be updated: further information should be included on guarantees of the independence of the courts, the structure of the judiciary and the judicial system and the role of the country's main institutions and the Office of the Attorney-General in defending human rights.

12. Referring to the general situation in Sri Lanka, he noted that for years the Government had been combating the terrorist acts of a secessionist movement. However, the violence practised by partisans of that movement seemed to have incited members of the armed forces and security forces to respond in kind, and if specific effective measures were not taken, the situation might well continue. Despite numerous allegations of acts of torture and ill-treatment by the security forces and the police, Sri Lanka had decided to accede to the Convention against Torture in 1994, thus demonstrating its firm intention of putting an end to such abuses. That appeared to be confirmed by the information provided by the Sri Lankan delegation. According to studies by the University of Jaffna, the situation had improved following the most recent political changes and measures taken by the armed forces themselves. Massive reprisals were said to have become the exception, and that was encouraging. However, court decisions revealed that members of the police force continued to engage in illegal acts, including torture, a circumstance which must be ascribed to the failure to punish such acts swiftly and effectively. In his view, all too often the courts ordered disciplinary sanctions for the perpetrators and compensation for the victims, although in many cases the offenders should have been prosecuted. He called upon the Government of Sri Lanka to give thought to other measures it might take to combat the practice of torture more effectively.

13. As noted in the report (para. 11), Sri Lanka had decided to ratify the Optional Protocol to the International Covenant on Civil and Political Rights. Why, then, did it not consider making the declaration under article 22 of the Convention? More generally, he wondered about the status of the Convention in Sri Lankan law: which took precedence in the event of a conflict between domestic law and the Convention? Paragraph 6 of the report stated that legislation had been adopted to give effect to Sri Lanka's obligations under the Convention. Did that mean that the Convention was not directly applicable in the country? Also, could the courts base their decisions on recommendations and observations of the Committee against Torture or, for example, of the Human Rights Committee?

14. Turning to the implementation of the Convention article by article, he noted that nothing was said in the report about article 1, which contained a definition of torture. Although the information in the report relating to article 2 was to a certain extent a reply, he was not convinced that the definition adopted by the Sri Lankan authorities was broader than that in the Convention. Among other things, the Convention did not give the term "suffering inflicted" a more restrictive meaning than the Supreme Court in its decisions (para. 48 of the report). Unlike the Convention, the decisions considered by the Supreme Court did not examine in detail the purposes for which the suffering was inflicted; in his view, that might well offer members of the security forces and the police a loophole. Although Act No. 22 of 1994 defined those purposes in section 12, it did not address the question of unusual punishment. The Sri Lankan authorities should study the question more closely and consider broadening the definition of torture in domestic law if it proved more restrictive than the definition in article 1 of the Convention.

15. Referring to article 2 of the Convention, he paid tribute to the judiciary for the action it had taken to combat torture, but felt that the legislation on the subject revealed a tendency to emphasize compensation rather than prevention. That deprived measures to curb torture of some of their force and might even be conducive to impunity.

16. Recalling that the security forces and the police were often reluctant to take disciplinary measures against their own members, he asked whether machinery existed to guarantee the independence of investigations when allegations were directed against such persons.

17. He would also like to know what conditions governed administrative detention. Welcoming the recent establishment of the National Human Rights Commission and the planned opening of regional offices of the Commission, as in Jaffna, he would appreciate further information on how the members of the Commission were appointed and how its recommendations and decisions were followed up.

18. As to paragraphs 72 and 73 of the report, which dealt with rules of evidence, he noted with concern that the emergency regulations provided for a departure from the normal rules of evidence, under which confessions obtained by illegal means were not admissible. He asked whether allegations of forced disappearance received the attention they deserved and whether, for example, investigations were being conducted or cases prosecuted. Moreover, could the delegation respond to allegations of the existence of secret places of detention?

19. With respect to article 3 of the Convention, he asked whether Sri Lanka's Extradition Law covered the second paragraph of that article, under which the authorities must take into account, where applicable, the existence of a consistent pattern of human rights violations. Regarding article 7 of the Convention, he inquired whether there was any machinery to guarantee the independence of the judiciary; that involved not only the appointment of judges but also other criteria, of which irremovability was one of the most important. Furthermore, given that it was in the first few hours of police custody that acts of torture or ill-treatment usually occurred, from what moment was a suspect entitled to the assistance of counsel?

20. Lastly, in respect of article 16 of the Convention, he would like to know about prison conditions, how complaints lodged by detainees were handled and whether all such matters were covered by a particular law.

21. Mr. YU Mengjia (Alternate Country Rapporteur for Sri Lanka) presented his deepest sympathy to the State party on the assassination, the day before, of the Mayor of Jaffna, which typified the situation prevailing in Sri Lanka. His own questions would focus more particularly on articles 10 to 15 of the Convention. Concerning article 10, he welcomed the importance attached to human rights in training members of the security forces, the police and prison guards. Military law and humanitarian law were also taught to the members of the armed forces. Had the results of that training been assessed, and was the prohibition of torture a separate subject?

22. With regard to article 11 of the Convention, he noted that a Parliamentary Select Committee on Constitutional Reform had been appointed, that in 1993 some emergency regulations had been amended and that arrest and detention provisions had been reviewed. In that general context, he asked whether independent machinery existed to hear complaints of ill-treatment. Moreover, what was the maximum duration of pre-trial detention, in normal circumstances as well as under the emergency regulations? Was a suspect entitled to have immediate access to counsel of his choice? If a person in police custody was indigent, was he entitled to a court-appointed lawyer?

23. Was it true, as a number of sources had reported, that the emergency regulations and the Anti-Terrorism Law were often invoked to depart from the rights guaranteed under both the Convention against Torture and other international instruments? Also, how was work on the new constitution progressing?

24. Referring to articles 12 and 13 of the Convention, which required the State party to proceed to a prompt and impartial investigation of allegations of torture, he inquired what measures, if any, ensured the impartiality of investigations conducted in cases of complaints against police officers. Regarding allegations of disappearances which, according to certain sources, were sometimes associated with torture, he asked whether complaints alleging such acts immediately gave rise to an investigation and, where the allegations were unfounded, whether the State party issued an official denial. As to paragraph 116 of the report, which stated that every police officer could not only require the attendance of persons who were able to give information but also examine them orally and search them, he wondered whether a warrant was needed.

25. With respect to article 14, he asked whether the victim of an act of torture had the right to redress and compensation and whether, if the torturer was insolvent, responsibility devolved upon the State party. More generally, he noted with concern that according to a number of sources the State party readily consented to compensate the victims but did not institute proceedings against the perpetrators. Were those allegations true? Lastly, there seemed to be an inconsistency between the provisions of legislation on certain serious offences affecting State security, which provided that confessions made in certain cases were admissible, and article 15 of the Convention. Could the complete text of that law be made available to the Committee?

26. Mr. SØRENSEN said that the Committee was aware of the difficulties facing Sri Lanka in its fight against terrorism, but emphasized that only legal methods were admissible. He therefore regretted that acts of torture were continuing but expressed appreciation to the State party for recognizing the importance of training as a way of preventing them and noted that several paragraphs of the report were devoted to the efforts being made to that end. Regarding paragraphs 104 and 105, he asked whether the medical professions were directly involved in training the police and prison guards. One of the most effective ways of curbing torture was to modify police attitudes and behaviour, and in that context, doctors were in a good position to make them understand that torture was a violation of the dignity not only of the victim, but also that of the perpetrator and society as a whole.

27. He asked whether the committees and commissions responsible for reviewing specific laws or practices concerning human rights (para. 108) acted systematically, whether each examination gave rise to a report and whether such reports were made public.

28. He paid tribute to the many non-governmental organizations which provided comprehensive medical, psychological and counselling services to the victims of torture. In that connection, he referred to the importance of 26 June, the date commemorating the entry into force of the Convention against Torture and which the General Assembly had declared United Nations International Day in Support of Victims of Torture. He called upon the State party to consider making the declarations under articles 21 and 22 of the Convention and also to make another contribution to the United Nations Fund for Victims of Torture and, more generally, to commemorate the Day officially, thereby recognizing the suffering of the victims.

29. Mr. ZUPAN□I□ said that, under the draft constitution, the Supreme Court was to have the power of judicial review of future legislation (para. 15 of the report). Did that mean that current legislation would remain in force even if it conflicted in certain respects with the provisions of the new constitution? With regard to the question of compensation, he asked whether responsibility was assumed by the person found guilty or by the State.

30. The CHAIRMAN thanked the delegation of Sri Lanka and invited it to reply to the Committee's questions at the next meeting

31. The delegation of Sri Lanka withdrew.

The first part (public) of the meeting rose at 11.20 a.m.

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COMMITTEE AGAINST TORTURE

Twentieth session

SUMMARY RECORD OF THE 339th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 18 May 1998, at 3 p.m.

Chairman: Mr. BURNS

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Second periodic report of Israel (continued)

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Initial report of Sri Lanka (continued)

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GE.98-16208 (E)

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CONTENTS (continued)

EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS (continued)

General guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 19, paragraph 1, of the Convention

Report of the ninth (extraordinary) meeting of persons chairing the human rights treaty bodies (continued)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Second periodic report of Israel (continued) (CAT/C/33/Add.3)

Conclusions and recommendations of the Committee

1. At the invitation of the Chairman, Mr. Lamdan, Mr. Shaffer and Mr. Galilee (Israel) resumed their places at the Committee table.

2. The CHAIRMAN, speaking in his capacity as Country Rapporteur, read out the conclusions and recommendations of the Committee concerning the second periodic report of Israel:

"1. The Committee considered the second periodic report of Israel (CAT/C/33/Add.3) at its 336th and 337th meetings, held on 14 and 18 May 1998 (CAT/C/SR.336 and 337) and adopted the following conclusions and recommendations:

A. Introduction

2. Israel signed the Convention on 22 October 1986 and deposited its ratification on 3 October 1991. The Convention entered into force in Israel on 2 November 1991. Upon ratification Israel made a reservation in respect of articles 20 and 30. Israel has not declared in favour of articles 21 and 22. This second periodic report was due on 1 November 1996 and was received on 6 March 1998.

3. Israel had presented a special report (CAT/C/33/Add.2/Rev.1) at the Committee's request, and the Committee's conclusions and recommendations included the recommendation that the second periodic report of Israel be presented for consideration at the November session, 1997, of the Committee against Torture. The second periodic report was prepared in accordance with the general guidelines concerning the form and contents of such reports.

B. Positive aspects

4. Israel has embarked upon a number of reforms such as the creation of the Office of Public Defence, the creation of the Kremnitzer Committee to recommend oversight of police violence, amendments to the Criminal Code, ministerial review of several security service interrogation practices and the creation of the Goldberg Committee relating to the rules of evidence.

5. The genuine dialogue that engaged the Committee against Torture and the Israel delegation.

C. Factors and difficulties impeding the application of the provisions of the Convention

6. Israel points to the state of insecurity with which it copes, but the Committee notes that pursuant to article 2 (2) this cannot justify torture.

D. Subjects of concern

7. The continued use of the "Landau rules" of interrogation permitting physical pressure by the General Security Services, based as they are upon domestic judicial adoption of the justification of necessity, a justification which is contrary to article 2 (2) of the Convention.

8. Resort to administrative detention in the Occupied Territories for inordinately lengthy periods and for reasons that do not bear on the risk posed by releasing some detainees.

9. Since military law and laws going back to the mandate pertain in the Occupied Territories, the liberalizing effect of the reforms referred to in paragraph 3 above will not apply there.

10. Israel's apparent failure to implement any of the recommendations of this Committee that were expressed with regard to both the initial and the special report (see documents A/49/44, paras. 159-171 and A/52/44, paras. 253-260).

E. Conclusions and recommendations

11. Israel expressed concern that this Committee had not set out its reasoning for its conclusions and recommendations on Israel's special report in extenso. Of course, the dialogue between a State and the Committee forms part of the context within which the Committee's conclusions and recommendations are made. However, in order to ensure that there is no room for doubt, the following reasons are the basis of the Committee's finding that its conclusions and recommendations (see document A/52/44, paras. 260 (a)-(d)) on the Israel special report should continue to form part of its conclusions and recommendations on this report:

(a) Since the State party admits that it applies force or "physical pressure" to those in the custody of its officials it bears the burden of persuading the Committee that such force or pressure offends neither articles 1 or 2 nor article 16 of the Convention.

(b) Since the State party admits to hooding, shackling in painful positions, sleep-deprivation and shaking detainees (through its delegates and courts, and supported by the finding of the United Nations Special Rapporteur on torture: E/CN.4/1998/38, at para. 121) the bare assertion that it is "not severe" is not in and of itself sufficient to

satisfy the State's burden and justify such conduct. This is particularly so when reliable evidence from detainees and independent medical evidence made available to Israel reinforce the contrary conclusion.

(c) Given that Israel itself asserts that each case must be dealt with on its own "merits" but that, for matters of security, material particulars of the interrogation cannot be revealed to the Committee, it follows that the conclusions of breach of articles 1, 2 and 16 must remain.

12. Accordingly, the Committee reaffirms its conclusions and recommendations on Israel's initial and special reports:

(a) Interrogations applying the methods referred to above are in conflict with articles 1, 2 and 16 of the Convention and should cease immediately;

(b) The provisions of the Convention should be incorporated by legislation into Israeli law, particularly the definition of torture contained in article 1 of the Convention;

(c) Israel should consider withdrawing its reservations to article 20 and declaring in favour of articles 21 and 22;

(d) Interrogation procedures pursuant to the "Landau rules" should in any event be published in full.

13. The practice of administrative detention in the Occupied Territories should be reviewed in order to ensure its conformity with article 16.

14. The Committee would be remiss if it did not acknowledge that the Israeli delegation initiated upon this occasion a genuine dialogue that revealed Israel's unhappiness with the present situation (without acknowledging any breach of the Convention) and its desire to cooperate with the Committee. The Committee, in its turn, respects Israel's right to present its position, even if the Committee disagrees with its reasons and conclusions, and expresses the genuine desire to continue the dialogue and to resolve the differences between Israel and itself."

3. Mr. LAMDAM (Israel) expressed surprise and deep disappointment regarding the conclusions, which appeared at first sight to be a reiteration of the substance of the previous year's conclusions with a certain modulation of tone and some recognition of Israel's dilemmas.

4. During its oral presentation, the delegation had cooperated extensively with the Committee, responding to all questions asked and offering wide-ranging information to the effect that Israeli law totally prohibited the use of torture and that the High Court of Israel ensured that interrogation procedures and all treatment of detainees remained within permitted

guidelines, in conformity with the law. Israel had hoped that the Committee would utilize the opportunity of the review process to enter into a substantive dialogue, rather than to make arbitrary determinations, without regard to the authoritative testimony submitted to it.

5. He welcomed the Chairman's effort to focus on the material concerns of the Committee and to avoid politicization.

6. He wished, however, to take the opportunity to draw attention to the very fundamental difference in interpretation of the intent of article 1 and article 16 of the Convention. Israel believed that its judicial system, which prohibited outright the use of torture, was in conformity with the Convention; many questioned why Israel should continue to submit to the review process, almost like a sacrificial lamb going to the altar, while the difference of legal interpretation remained unresolved.

7. It appeared that Israel was being held to a higher standard than many other countries, possibly because its judicial system was more open than most and that, somewhat exceptionally, detainees could appeal to the High Court while their interrogations were in progress. The members of the Committee were invited to consider whether the transparency of the Israeli system and the openness with which it related to the Committee had not prompted a double standard.

8. It was simply not serious for the Committee to submit some 70 questions in the morning and expect, by the afternoon, to receive considered and in-depth replies which were supposed to serve inter alia as the basis for the Committee's conclusions. Moreover, it might reasonably be concluded that many of the questions were being asked for the sake of asking, and perhaps also for the gallery.

9. Finally, he wondered whether it was appropriate that the role of rapporteur should be taken by a member of the Committee who had already decided, when Israel appeared before the Committee the previous year, that Israel used methods amounting to torture in interrogating suspected terrorists. The implied comparison, made by the same rapporteur and another member of the Committee, with the experience of the Jewish people during the Holocaust was deeply offensive, unmerited and unacceptable.

10. The CHAIRMAN thanked the Israeli delegation for the spirit of cooperation they had displayed; they had set the stage for a new spirit of dialogue.

11. The delegation of Israel withdrew.

The meeting was suspended at 3.20 p.m. and resumed at 3.40 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

12. After a brief general discussion, the CHAIRMAN announced that Mr. Sørensen, Mr. Yakovlev and he himself would act as thematic rapporteurs on issues relating respectively to gender, children and discrimination in the

reports submitted to the Committee, and would also report back on any issues of concern to the Committee against Torture touched on by the committees responsible for those matters.

The meeting was suspended at 3.45 p.m. and resumed at 3.50 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Initial report of Sri Lanka (continued) (CAT/C/28/Add.3)

13. At the invitation of the Chairman, Mr. Palihakkara, Mr. Yapa, Mr. Grero and Mr. Arachchi (Sri Lanka) resumed their places at the Committee table.

14. Mr. PALIHAKKARA (Sri Lanka) said that Sri Lanka had ratified the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) in October 1997, in keeping with the Government's policy of openness to local and international scrutiny, including the right to submit information to international bodies. The ICCPR did not preclude the declaration under article 22, and he would certainly draw the matter to the attention of the authorities.

15. He apologized for Sri Lanka's late submission of its initial report; as a party to 13 international instruments, Sri Lanka had heavy reporting responsibilities. However, a coordinating body had been established to streamline the drafting of reports, so they would in future be submitted more punctually.

16. Mr. YAPA (Sri Lanka) referred to the three cases in which the Supreme Court had awarded compensation, and subsequent action to be taken by the Inspector General of Police under the directives of the Supreme Court. In the first case, the State had been ordered to pay 7,000 rupees compensation and 750 rupees costs, the first respondent police officer had been ordered personally to pay 7,000 rupees in compensation, and the second respondent police officer 5,000 rupees. As instructed, the Inspectorate General kept a record of the activities of the police officers and had subsequently reported to the Supreme Court that they had paid the compensation. The Attorney-General's Department also monitored the cases in question and the subsequent action of the Inspector General, who was also expected to investigate the attendant circumstances. Annex I contained details of cases of human rights violations including torture, where the Supreme Court had ordered compensation and instructed to the Inspector General to take appropriate steps. The Attorney-General's Department had examined all such cases and had requested information from the Inspector General regarding follow-up.

17. In human rights applications, unlike criminal trials, the Supreme Court conducted an inquiry on the basis of the affidavits before it and reached a finding on the balance of probability. Where appropriate, it then ordered compensation and instructed the Inspector General of Police to take further steps. Subsequently, the criminal justice system would come into operation, upon the receipt of a complaint of physical harm from a victim. Investigations were then conducted, the notes from which were submitted to the

Attorney-General who would decide if an indictment was to be filed. However, after receiving compensation, victims frequently failed to lodge the complaint necessary for the initiation of criminal proceedings.

18. In order to make a Convention applicable, enabling legislation was required; Act No. 22 (CAT Act) had been promulgated in December 1994. Where it existed, legislation prevailed over international instruments, although when an exact interpretation was necessary the relevant international instrument was also taken into account: for example, section 9 of the Act, which referred to extradition arrangements, stipulated that a person could be extradited "in respect of ... the offence of torture as defined in the Convention".

19. The definition of torture contained in the Act was broader than that in the Convention insofar as the Convention referred to acts that were "intentionally inflicted" whereas Act No. 22 did not introduce a mens rea element. The prohibition of the use of torture to obtain information from a person and the other "purposes" listed in article 1 of the Convention were covered in the Act. However, his delegation had taken the point that the reference in the Act to the "following purposes" could be seen as more restrictive than the Convention's wording "for such purposes as".

20. The Human Rights Commission of Sri Lanka had advisory powers and could steer the Government in the right direction when it came to amending or drafting legislation, to ensure that it was in line with international norms and standards.

21. Sri Lanka's body of legislation included the Corporal Punishment Ordinance, which had for the most part fallen into disuse. However, there had recently been a few cases in which magistrates had used the provision to order caning of juvenile offenders. Human rights organizations in Sri Lanka were looking into the matter, which had been brought to the attention of the Government.

22. The Supreme Court could request the Inspector General of Police to initiate an investigation and then, when it had been carried out, refer the matter to the Attorney-General for prosecution.

23. Sri Lanka had taken steps to ensure that investigations in which the accused were police officers and that were dealt with by the police were independent. New special units had been set up to carry out investigations and monitor investigations that were being conducted elsewhere. Special units of the Crown and State Counsel had been set up in the Attorney-General's Department to supervise the investigations that were being carried out.

24. In the case of Wimal Vidyamani v. Lt. Col. L.E.P.W. Jayatilake and others (SC Appn. 852/91), the Supreme Court had ordered the State to compensate the petitioner for violation of his fundamental rights. On the basis of the Supreme Court judgement, the Inspector General of Police had launched a criminal investigation and finally criminal proceedings had been instituted against all the suspects. The cases, Nos. 77817 and 77818, had been pending before Embilipitiya Magistrate's Court since 1993 owing to the large volume of cases being dealt with in magistrates' courts.

25. Under the Evidence Ordinance, confessions made to police officers, even voluntarily, were not admissible. Confessions made before a magistrate, without inducement by a police officer, were admissible, if accepted by the judge. The emergency regulations and the Prevention of Terrorism Act provided for a departure from the normal rules of evidence, whereby confessions made to a senior police officer were admissible if it could be proved to the judge that no inducement or coercion had been used.

26. Mr. GRERO (Sri Lanka) said that under the emergency regulations, the Secretary for Defence could order the detention of a person for a period not exceeding three months at a time, up to a maximum of one year. However, those provisions did not preclude the need for an arrested person to be produced before a magistrate within 24 hours of his or her arrest.

27. Mr. PALIHAKKARA (Sri Lanka) said that allegations of disappearances were of major concern to the Government. Three commissions on the question of disappearances had concluded their investigations and their reports had been published and submitted to the United Nations Working Group on Enforced or Involuntary Disappearances, which had been invited to visit Sri Lanka. An interministerial committee was looking into ways to implement the commissions' recommendations, including those on compensation and prosecution. Thus far, 188 cases had been referred to the Attorney-General's Department; specific action had been taken on four cases; there had been 20 indictments; and 14 cases had been dismissed.

28. There had been concern at the allegations of disappearances in Jaffna. However, stringent measures had been put in place to deal with abuses by the military and the Government, keen to demonstrate that they would not enjoy impunity, had taken a hard line in cases where soldiers had been found guilty of human rights abuses.

29. The place of detention mentioned by a member of the Committee, presumably on the basis of an Amnesty International report, was in fact, as far as he knew, a place where soldiers were billeted. There were no secret places of detention in Sri Lanka. All detention centres were documented and the International Committee of the Red Cross was free to visit them at any time.

30. Section 2 of the Human Rights Commission Act provided for appointment of Commission members by the President on a recommendation by the Prime Minister, who was obliged to consult the Speaker of the House of Parliament and the leader of the opposition party. Of the five serving members, three were Sinhalese, one was a Tamil and one a Muslim. The formal and informal wide-ranging consultations undertaken prior to their appointment had led to criticism of the unwieldiness of the procedure. However, the authorities felt that the consensus eventually achieved had been worth the effort.

31. A legal aid system was operated by the Ministry of Justice and the Bar Association of Sri Lanka. Legal aid centres were also run by the Sri Lanka Law College, the University of Colombo and the Open University and additional assistance was provided by international organizations.

32. The courses for law enforcement officers conducted by the Faculty of Medicine of the University of Colombo were highly appreciated by the authorities and the University had been urged to increase their number. However, such courses placed severe time constraints on busy teaching staff.

33. Mr. YAPA (Sri Lanka), while admitting that prisons were overcrowded, said that an ambitious building programme had been launched recently. A majority of detainees were not convicted prisoners and many were being held on remand because they had been unable to furnish bail. To remedy that situation, a Bail Act had been adopted in December 1997 containing new provisions regarding the granting of bail. For example, magistrates would no longer remand accused persons in the first instance but release them on bond, i.e. on an undertaking to appear in court on the date set for the trial. As soon as the practical effects of that provision began to be felt, overcrowding would be greatly alleviated. The Prison Ordinance provided for advisory committees and prison visits. Prisoners who had been ill-treated or were dissatisfied with existing conditions were entitled to complain and an inquiry would be held. The Emergency Regulations required all detention centres to be authorized and contained provisions governing supervision, questioning of suspects and reporting to magistrates.

34. Article 107 of the Constitution, entitled "The independence of the Judiciary" established the procedure for the appointment of judges to the Supreme Court and the Court of Appeal. The Chief Justice, the President of the Court of Appeal and all other judges of those two courts were appointed by the President of the Republic. They could not be removed before retirement save by an order of the President based on a request for removal, supported by a majority of members of Parliament, on the ground of gross misbehaviour or incapacity. The age of retirement of Supreme Court judges was 65 years and of Appeal Court judges 63.

35. High Court judges were appointed by the President but judicial control was exercised by the Judicial Service Commission composed of the Chief Justice, a judge of the Supreme Court and a judge of the Court of Appeal.

36. It was felt that Act No. 22 of 1994 (CAT Act), already referred to, fulfilled Sri Lanka's obligations under the Convention with respect to extradition. Certain provisions of Extradition Law No. 8 of 1977 might, however, need to be amended and updated. He drew attention to section 11 regarding the manner in which a request for extradition might be refused. When such a request was received, the person concerned was taken into custody pending a hearing before the High Court. The authorities were required to provide material evidence to justify extradition. On completion of the inquiry, the Court could order the release of the detainee on account of the trivial nature of the offence, the passage of time since its commission or a finding that the accusation had not been made in good faith or in the interests of justice. The possibility that an extradited person would be subjected to torture or ill-treatment would certainly be a sufficient ground for refusal by the Court and the Minister of Justice to order extradition.

37. There was no provision or regulation permitting incommunicado detention, despite allegations to the contrary which had been investigated by the courts. There was also no provision barring a person taken into custody from obtaining

legal assistance. Counsel had been retained by the legal aid authority for a large number of cases relating to alleged human rights abuses. Where a case was referred to the High Court, State assistance for the assignment of counsel was available in all cases.

38. Mr. PALIHAKKARA (Sri Lanka) said that the Government was deeply aware of concerns regarding possible derogations from the constitutional and legislative prohibition of torture under the Emergency Regulations and the Prevention of Terrorism Act and had introduced a number of administrative, regulatory and supervisory safeguards, described on pages 14 to 16 of the report which were designed to minimize the scope for abuse. He admitted, however, that abuses could still occur. The Government had permitted several national and international organizations to investigate conditions of detention, arrest and other procedures and the law enforcement authorities were subject to criticism and complaints.

39. Medical professionals participated in training courses for law enforcement officers, and representatives of international organizations such as the International Committee of the Red Cross were invited to deliver lectures and, if possible, conduct specially designed training courses. The authorities were aware that changes in police attitudes were necessary and welcomed the salutary role played by such initiatives. The higher defence authorities had conveyed a strong message to that effect to all branches of the law enforcement system.

40. In response to a question concerning ad hoc review mechanisms, he said that the mechanism described in paragraph 108 of the report was not held to be exhaustive. It was to be hoped that the Human Rights Commission would eventually serve as an ongoing review mechanism. Although it was experiencing some teething problems and had not yet attained maximum capacity, its financial and human resources would be enhanced in due course and its activities broadened to include recommendatory activities.

41. He would communicate both to the authorities and to the non-governmental sector Mr. Sørensen's suggestion regarding the observance on 26 June of United Nations International Day in Support of Victims of Torture.

42. Mr. YAPA (Sri Lanka), replying to a question by Mr. Zupančič concerning the proposed provision in the draft new Constitution which would confer on the Supreme Court the power to review future legislation up to a period of two years from the date of enactment, said that it could indeed be argued that the review period should be open-ended since problems relating to incompatibility with a fundamental principle could arise at any time. Such objections had already been raised by a number of Sri Lankan organizations and would be taken into account by the Parliamentary Select Committee entrusted with the task of drafting the Constitution.

43. There had been one instance where compensation had been ordered against a respondent, who had failed to pay. The Supreme Court had held that there was no question of vicarious liability in the case of fundamental rights, and that the State was directly liable and must pay. That position had not changed. The Supreme Court had, however, recently begun a procedure of ordering compensation to be paid by individual respondents as a sort of

punishment, but the fundamental principle that the State should pay compensation remained. In the event of a respondent failing to pay, the Supreme Court could consider citing him for contempt or for violating an order, and penal provisions would apply.

44. The delegation of Sri Lanka withdrew.

The meeting was suspended at 5.10 p.m. and resumed at 5.25 p.m.

EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS (agenda item 11) (continued)

General guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 19, paragraph 1, of the Convention (CAT/C/14/Rev.1)

45. The CHAIRMAN called attention to the proposed amended version (CAT/C/14/Rev.1) of the Committee's general guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 19, paragraph 1, of the Convention. Part II, "Additional information requested by the Committee", was merely a reiteration with slightly different wording of the requirement that States that had not provided any information requested by the Committee should do so.

46. Mr. BRUNI (Secretary of the Committee) said that the language was a little complicated, but it reflected a certain logic. The Committee was asking States parties to submit periodic reports, which should contain a specific, separate part giving the additional information requested during the Committee's consideration of the State party's previous report. If the requested information was submitted in another report or communication, it did not need to be included again in the subsequent periodic report. The hypothetical case, referred to in the second part of the proposed amendment to Part II, where the Committee requested an additional report in accordance with rule 67, paragraph 2, of its rules of procedure, occurred very rarely, when it felt that the main report was not very informative and asked for additional information before the next periodic report.

47. Mr. ZUPANČIČ suggested that perhaps the wording could be made more intelligible.

48. Mr. EL MASRY proposed deleting the subordinate clause beginning with the word "unless" and ending the amended text with the word "report". There was no harm in a State party's reproducing information contained in a report.

49. Mr. SØRENSEN said that States parties were continually asking to be helped in their work by not being required to repeat themselves. The full sentence should be retained, meaning that the State party would not have to repeat itself.

50. The CHAIRMAN suggested that a full stop should be added after the word "report" and a new sentence drafted beginning with the phrase, "If the information has already been provided by the State party ...". The precise wording could be left to the secretariat.

51. It was so decided.

52. Mr. SØRENSEN said that he understood that the point of Part III was to have been that all States parties should attempt to produce focused reports in order to facilitate both their job and that of the Committee, providing answers to specific questions. Such questions naturally included how the State party had followed up on the Committee's recommendations on its previous report.

53. Mr. MAVROMMATIS said that the heading was misleading: the words "follow-up of" should be replaced by "compliance with".

54. It was so decided.

55. Mr. SØRENSEN said that not only the amended general guidelines on periodic reports but also the general guidelines regarding the form and contents of initial reports to be submitted by States parties under article 19, paragraph 1, of the Convention (CAT/C/4/Rev.2) should be included in the compilation of general comments and general recommendations adopted by human rights treaty bodies (HRI/GEN/1/Rev.3).

56. It was so decided.

57. Mr. YU asked whether the words "concluding observations" did not mean the Committee's conclusions and recommendations.

58. MR. GONZÁLEZ POBLETE said that was indeed what they meant. As it was important for the State party to understand what the Committee wanted, and as the words used in the Committee's reports were "Conclusions and recommendations", those should be the words used in the revised guidelines as well.

59. The CHAIRMAN proposed that the heading of Part III should accordingly be amended to read, "Compliance with the Committee's conclusions and recommendations".

60. It was so decided.

61. The draft amendments to the general guidelines were adopted, as amended.

Report of the ninth (extraordinary) meeting of persons chairing the human rights treaty bodies (continued)

62. Mr. SØRENSEN, who had represented the Committee at the ninth (extraordinary) meeting of persons chairing the human rights treaty bodies, which had been held at Geneva from 25 to 27 February 1998, said that there were two points to be raised for the Committee's consideration. The first was the desirability of an action plan to follow up the decisions of the World

Conference on Human Rights, in order to show not only that the Committees were functioning but also that they were expanding their functions. The Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women had already drawn up such action plans and had succeeded in obtaining more funding as a result, enabling them to undertake field work in different countries in order to facilitate the implementation of their respective conventions. Originally, the Chairpersons had requested the establishment of voluntary funds for all the committees, but he thought it was the duty of the Secretariat to ensure the Committee's functioning. The Secretariat, in conjunction with the Chairperson's and the representatives of the two committees he had referred to, was apparently preparing a paper on how the other committees could expand their work and participate in the action plan. The Committee needed merely to take note of that fact and to discuss it at its next session.

63. The second point was the question of training in human rights, which should be raised at the meeting to be held on 19 May with the Board of Trustees of the United Nations Voluntary Fund for the Victims of Torture, the Special Rapporteur on torture and the High Commissioner for Human Rights, who would meet together for the first time on that occasion. An important part of that question was training in the prevention of torture, not only locally, in States parties, but also for peace-keeping forces, which were frequently made up only of military personnel and had difficulty in performing their task as they were put to work as police. The Committee's knowledge about different aspects of torture might remedy that problem, particularly with regard to the need to differentiate between the police and the military. Also to be discussed at the meeting on 19 May were the forthcoming celebrations of the fiftieth anniversary of the Universal Declaration of Human Rights and the observance on 26 June of the United Nations International Day in Support of Victims of Torture.

The meeting rose at 5.50 p.m.

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COMMITTEE AGAINST TORTURE

Twentieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 340th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 May 1998, at 10 a.m.

Chairman: Mr. BURNS

later: Mr. WALKATE

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JOINT MEETING WITH THE BOARD OF TRUSTEES OF THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE, THE COMMISSION ON HUMAN RIGHTS SPECIAL RAPPORTEUR RESPONSIBLE FOR ISSUES RELATING TO THE PRACTICE OF TORTURE, AND THE HIGH COMMISSIONER FOR HUMAN RIGHTS

* The summary record of the second part (private) of the meeting appears as document CAT/C/SR.340/Add.1.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.98-16262 (E)

The meeting was called to order at 10.05 a.m.

JOINT MEETING WITH THE BOARD OF TRUSTEES OF THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE, THE COMMISSION ON HUMAN RIGHTS SPECIAL RAPPORTEUR RESPONSIBLE FOR ISSUES RELATING TO THE PRACTICE OF TORTURE, AND THE HIGH COMMISSIONER FOR HUMAN RIGHTS

1. Mrs. Robinson (High Commissioner for Human Rights), Mr. Rodley (Special Rapporteur responsible for issues relating to the practice of torture) and Mr. Walkate, Mr. Tosevski, Mr. Hatano and Mr. Wako (Board of Trustees of the United Nations Voluntary Fund for Victims of Torture) took places at the Committee table.

2. The CHAIRMAN extended a welcome to the High Commissioner for Human Rights, the Special Rapporteur on Torture, and the members of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, and expressed gratification at the opportunity thus afforded to all of them to unite their efforts in the fight against torture. He invited Mr. Walkate to preside over the deliberations.

3. Mr. Walkate (United Nations Voluntary Fund for Victims of Torture) took the Chair.

4. The CHAIRMAN informed the Committee that Ms. Odio Benito, also a member of the Board of Trustees of the Fund, was detained at The Hague by her duties as a member of the International Criminal Tribunal for the former Yugoslavia.

5. Speaking as Chairman of the Board of Trustees of the Fund, he said that in the common fight against the evil of torture the Committee against Torture was in the front line where prevention was concerned, inasmuch as it was the body which approached member States to urge them to fulfil their obligations. In regard to prevention the High Commissioner also played a decisive role by virtue of her continuing contacts with States parties and with the Special Rapporteur on torture. The Fund, for its part waged the battle on another front, for it dealt with people after they had been victims of torture. It was a distressing but necessary task to determine the facts about what had happened to them and evaluate their needs. Established 17 years previously by the General Assembly as an affirmation of the existence of a collective responsibility towards the survivors of torture, the Fund received contributions from States, organizations and individuals and distributed them in the form of humanitarian, legal and financial aid to the victims and their families, by according subsidies to organizations that submitted to it plans for assistance in the medical, psychological and psychiatric, social, economic and legal spheres.

6. Since its creation, the Fund had seen a progressive increase in applications for subsidies. Initially, they had been submitted mainly by small organizations, but currently more and more of them were coming from larger organizations. The people with the task of looking after victims of torture were increasingly competent in their area and came into contact with a growing number of survivors. The question was not, of course, to determine how many victims of torture there were in the world; if there were only one it would be too many. To determine how many people the Fund had helped was by no

means easy; a survey had shown that in 1997 it had had dealings with some 100 organizations, large and small, working on the rehabilitation of victims and had come to the assistance of some 60,000 persons in about 135 countries. As to contributions, they had progressively increased thanks to the efforts of successive High Commissioners, the secretariat and the members of the Committee, who had campaigned to induce member States to contribute. In 1998 the Fund had 4 million dollars in hand, which was 1 million dollars more than the previous year, and the total value of requests was of the order of 6.8 million dollars. In 1997 the Board of Trustees, which looked very closely into needs, had found that some requests addressed to it were manifestly excessive and had asked those concerned to submit more realistic figures.

7. Prevention was crucial and the Committee against Torture was playing an indispensable role when it publicly proclaimed for the attention of Governments that torture was unacceptable and that its perpetrators must be brought to justice. The question of impunity was pivotal; the fact that torturers remained unpunished was not only morally and judicially reprehensible but also, above all, inflicted further wrong upon the victims, so it was essential to convince States that they must prosecute the guilty parties. Training of all law-enforcement personnel and members of the medical professions was also crucial. All too often it came to light that medical staff had participated actively in the infliction of torture, so training specifically addressed to them on the subject of prohibition of torture seemed imperative.

8. Another point of great concern to the Voluntary Fund was the emergence of new torture techniques. Year by year it was observed that torturers were resorting to ever more refined methods, designed to leave no trace and make the after-effects more and more difficult to treat, which showed that torture was not inflicted only for immediate ends, but also with the aim of doing lasting harm to the victims. Thus, one organization had reported that the new scientific methods of torture, applied beyond any doubt with the participation of doctors and surpassing in horror anything that the Middle Ages had seen, included, for example, the feeding to the victim of yoghurt into which had been incorporated radioactive substances that dissolved the body proteins, causing intense suffering and damaging the brain tissue. It was more urgent than ever to take action and he hoped that the participants in the present meeting would adopt a joint declaration that could be published on the occasion of the United Nations International Day in support of the victims of torture.

9. Mrs. ROBINSON (High Commissioner for Human Rights) said she was all the more gratified at the opportunity afforded her to take part in the joint meeting in that it was her wish to establish closer ties between the three United Nations mechanisms thus meeting together, with a view to combating as effectively as possible one of the most serious of all violations of human rights. The adoption of a joint declaration highlighting that cooperation would show their commitment to working harder together to overcome a terrible and worldwide evil.

10. She shared the viewpoint expressed by her predecessor, who had stated, in Copenhagen, that putting an end to torture was the first requirement for the realization of the most fundamental right, namely recognition of the

dignity and inherent worth of every individual. On the occasion of the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights, Governments must be pressingly urged to condemn torture unequivocally and prosecute torturers, and in particular to ratify the Convention and accept the optional provisions set out in its articles 20 and 22. It was also desirable that the future optional protocol on torture should be adopted as quickly as possible, for it would greatly assist the prevention of torture at places of detention. The progress made at its last session by the working group appointed to draw up the protocol was very encouraging.

11. The number of meetings of the Committee had been increased in 1998 to take account of its heavier workload, due in particular to the functions it had to perform under articles 20 and 22 of the Convention. She and the Secretary-General were in favour of lengthening the Committee's spring sessions, and she was pleased to see that the members of the Committee were ready to devote more time to their task. She paid tribute to the high level of competence they possessed, as also to that exhibited by the Special Rapporteur and those responsible for the management of the Voluntary Fund.

12. United Nations Day in support of the victims of torture would be observed on 26 June 1998 and the Deputy High Commissioner would be taking part on that day in a ceremony organized at Copenhagen by the International Rehabilitation Council for Torture Victims. She herself would be in Vienna on that day with the Secretary-General but would also be expressing her support for that effort through the joint declaration that was to be adopted at the current meeting.

13. Mr. BURNS, Chairman of the Committee against Torture, read out in English the provisional text of the draft joint declaration which the participants in the current meeting were invited to adopt. The authors of the declaration, welcoming the decision of the General Assembly to observe on 26 June 1998 the United Nations International Day in support of torture victims, and recognizing that torture was one of the vilest acts one human being could commit against another, that it was prohibited by article 5 of the Universal Declaration of Human Rights, and that it was a violation of a non-derogable human right and an international crime, urged all States, if they had not yet done so, to ratify the United Nations Convention against Torture a d Other Cruel, Inhuman or Degrading Treatment or Punishment without reservation, calling upon them also to: ensure that torture was designated as a crime in their domestic law; rigorously pursue torturers wherever they had committed their crimes and bring them to justice; provide in their domestic law for compensat ion and rehabilitation of victims of torture; contribute to the United Nations Voluntary Fund for Victims of Torture as generously and frequently as they could; and cooperate whenever so asked with the United Nations Special Rapporteur responsible for issues relating to torture. Through such measures, it could be ensured that the vile crime of torture was repressed and condemned by all the peoples of the world.

14. The draft joint declaration was adopted by consensus.

15. Mrs. Robinson (High Commissioner for Human Rights), withdrew.

16. The CHAIRMAN gave the floor to Mr. Burns to report on the work of the Committee against Torture.

17. Mr. BURNS, outlining the activities and functions of the Committee against Torture, reminded members that the Convention invested it with powers in three areas. Under article 19 of that instrument, the Committee was empowered to monitor, on the basis of the reports submitted by the States parties, the application of the Convention in the various countries and the effect given to the undertakings entered into by the States. As appropriate, it pointed out shortcomings, awarded "good marks" and made recommendations, endeavouring to obtain the cooperation of States parties and bring moral pressure to bear upon them. In virtue of article 20, the Committee was competent to institute an inquiry when it received well-founded indications that torture was being systematically practiced in the territory of a State party, including a visit to that territory insofar as the State party concerned had not filed any reservations with regard to the relevant provisions. Only four inquiries accompanied by visits had been conducted since the Committee's creation. Under article 22, the Committee was competent to receive and consider communications from individuals subject to the jurisdiction of any State party that had made the declaration provided for in the article. In fact, dealing with such communications was becoming an ever more important part of the Committee's work.

18. Furthermore, the Committee against Torture had begun to draft, for the information of States parties and of any authors of communications, some general observations on its position with regard to one or another article of the Convention. It was collaborating with the Voluntary Fund for Victims of Torture by systematically encouraging the States parties submitting reports to make contributions to the Fund. Finally, it had concluded arrangements with the Special Rapporteur on Torture whereby the latter refrained from intervening in a situation upon which the Committee had decided to institute an inquiry under article 20 of the Convention.

19. As for those major subjects of concern to the Committee, the questions of impunity and of training in human rights, there were obviously not very many States ready to make vigorous efforts, when the need arose, to inquire into acts of torture committed in their territory by members of the police force and prosecute the perpetrators. In such cases, the Committee's task was simple - to remind States parties of their obligations in that regard - whereas States in whose territory systematic acts of torture had been committed and which, as was currently often the case, were striving to consolidate a return to peace and democracy after years of turmoil, were faced with a dilemma: to achieve at any price a political reconciliation between the respective groups represented by the perpetrators and the victims of the acts of torture committed, or to discharge the obligations entered into under the Convention. It was incumbent upon the Committee to pursue its mission while also being aware of such situations. Where training was concerned, it was important to convince States of the usefulness of providing funds for training of police personnel to make them aware of the principles enshrined in the Convention, for that would be the most effective way of overcoming the problems encountered in the application of that instrument.

20. Mr. RODLEY (Special Rapporteur on torture) said he was glad to have the opportunity to take part in a joint meeting of three mechanisms dealing with questions of torture; the meeting would undoubtedly be a source of inspiration for each of those mechanisms in its work. With the approaching celebration of the International Day in support of the victims of torture, it was gratifying that the meeting should have adopted a joint declaration on the subject.

21. Referring to his own tasks, he said that his activities, though deriving from a clear mandate, were far less structured than the tasks of the Committee Against Torture and differed from them in many respects, the most obvious example being the urgent appeals procedure. That procedure, which was preventive and not comminatory in nature, consisted, when the Special Rapporteur or the Office of the High Commissioner for Human Rights was informed that a detainee was at risk of being tortured, in urgently requesting the Minister for Foreign Affairs of the State concerned to make sure that the individual in question was detained in conditions that safeguarded his dignity and ensured respect for his rights. Another example: the Special Rapporteur submitted to Governments summaries of allegations of torture made against them; those summaries were always based on reliable information and dealt either with the general nature of the practices imputed to those Governments or with the institutional or legal shortcomings conducive to the commission of acts of torture in the country, or else again with individual and quite specific acts of torture or ill-treatment. That function differed from the activities conducted by the Committee Against Torture under article 22 in that the Special Rapporteur was not required, any more than were other mechanisms such as the Working Group on Enforced or Involuntary Disappearances or the Special Rapporteur on extrajudicial, summary or arbitrary executions, to reach a decision on communications submitted by individuals claiming to have been victims of torture. There was nonetheless a certain complementarity between the tasks of the Committee and those of the Special Rapporteur inasmuch as the latter, in his annual report to the Commission on Human Rights, submitted observations on the problems identified in which he often took into account the conclusions formulated by the Committee on the completion of its study of the reports submitted by States parties under article 19. The Special Rapporteur and the Committee also endeavoured to avoid duplication, whether in the conduct of inquiries instituted by the latter in pursuance of article 20 of the Convention or in cases of expulsion or refoulement that the Committee had to consider under article 3 of that instrument. For his own part, too, the Special Rapporteur endeavoured in his field activities to elicit contributions to the Fund for the Victims of Torture. The problem of impunity seemed to be in the forefront of everyone's concerns. For his own part, in his last report to the Commission on Human Rights, he had emphasized the need to establish an international criminal court with statutes that would empower it to take cognizance of systematic practices constituting crimes against humanity or acts of violence committed in the course of armed conflicts and contravening the laws of war and, in particular, the Geneva Conventions.

22. The CHAIRMAN observed that the mechanisms for dealing with questions concerning torture possessed in practice little leverage for compelling States to discharge their international obligations. One might wonder what was the likely reaction of a Government - shame or embarrassment? - when it became clearly apparent that torture was practised in the country although the State

had pledged itself not to allow such acts. What did it do to put that right? Was the mobilization of public opinion capable of spurring it into action? He invited the participants in the meeting to think about those questions.

23. Mr. WAKO (Board of Trustees of the Voluntary Fund for Victims of Torture), reverting to the text of the joint declaration that had just been adopted, expressed regret that the Committee had not reemphasized the idea that torture must disappear if there was to be any real respect for human rights. He also had doubts about the wording of the appeal to States to contribute to the Fund for Victims of Torture.

24. With more particular reference to the Voluntary Fund, he was grateful to the Special Rapporteur and the Chairman of the Committee for everything they were doing to elicit contributions and thought it would be well to strengthen further the ties of cooperation between the three mechanisms for that purpose. The Special Rapporteur would perhaps like, in the course of his activities in the field, to give further help to the Board of Trustees of the Fund in identifying victims of torture and their families, particularly in Africa. While the Board of Trustees was doing everything it could to help victims of torture, it remained dependent on the existence of organizations able to bring those victims and their families to its attention. Such organizations were woefully lacking in Africa, so the Board of Trustees would be glad of any information the Committee and Special Rapporteur could give it to enable it to open up lines of communication with the countries of that continent.

25. With regard to impunity, he noted that the problem was multifactoral: sometimes it was not the Government's political will which was in question, but rather the practical difficulties it encountered in inquiring into allegations of torture and prosecuting the perpetrators. Those difficulties might lie simply in the ineffectiveness of the system of administration of justice. Moreover, many developing countries were not in a position to finance training of the persons responsible for the application of the laws because they had to cope with far more urgent needs in other areas. For those reasons, States were often powerless to overcome the problem of impunity even when they had the backing of a democratic regime.

26. Mr. SØRENSEN noted with gratification that the participants in the joint meeting had laid great stress on the prevention of acts of torture and the training of those responsible for applying the law. He himself wished to emphasize the very great importance of training for doctors; all the studies showed that in 60 per cent of cases of torture a doctor was involved at one stage or another. Nor must one leave out of account the part played by the studies which doctors themselves conducted on methods of torture. After a while, they were able to catalogue the signs that a given method of torture had been used and make them known, thus helping to bring about the abandonment of that method - "falaka" (beating on the soles of the feet) was an example of that in the case of Turkey. Of course, new methods of torture came to take the place of the old ones, so the progress made in the fight against torture by that means was not always notable. At the most, such studies provided means for retrospective control. Due emphasis must also be laid on measures for prevention.

27. The effort at prevention, with which he bracketed training, operated at three levels. Primary prevention, in which the United Nations committees and commissions operating in the human rights field played a role, aimed at creating the political will to prohibit torture and at sensitizing the whole world to its horrific nature. Secondary prevention sought mainly to limit the number of cases of torture, and that was the stage at which training of police, prison staff and physicians was of prime importance. It brought into play non-governmental organizations as well as Governments, on which article 10 of the Convention laid an obligation to work to that end, but also the technical assistance branches of the United Nations, which had prepared a number of very useful brochures. As for tertiary prevention, it aimed at mitigating as far as possible the effects of torture. It was at that level that the Voluntary Fund played its part. It was also important to train and sensitize the United Nations peacekeeping forces which might, in the field, come up against acts of torture and must be able to respond to them.

28. Mr. ZUPANČIČ stressed that some legal systems would appear to facilitate the practice of torture, inasmuch as it might be perceived as the by-product of an inquisitorial judicial system carried to the extreme. It was important to take action at the level of legal systems so as to make torture difficult or even impossible. Article 15 of the Convention, which required States parties to ensure that no statement obtained by torture could be invoked as evidence in any proceedings, was of key importance in that regard. While the distinction between authoritarian and non-authoritarian regimes did reflect a certain reality, with most countries it was a flaw in the judicial system which made torture, and the impunity that often went with it, possible. He therefore stressed the importance of the composition of delegations, which must be equipped to understand the very specific legal questions that were involved, in particular in the context of article 15 of the Convention.

29. Mr. YAKOVLEV said that one of the Committee's achievements had been to establish torture as a crime condemned by the international community. The importance of Member States' incorporating the definition of torture into their domestic legislation was now taken for granted, at least in principle. It was because torture sometimes lay at the very heart of the functioning of the State and impinged upon the domains not only of ethics, but also of policy and of the legal order of the whole of society, that the international community could and must be concerned about it.

30. He drew a distinction between sporadic torture or ill-treatment, which might be described as "excesses" committed by individuals, torture attributable to flaws in a given legal system, and the torture which was an integral part of the system of government of certain States. He also drew a parallel between the responsibility of torturers and that of the State and drew attention to the dangers of impunity, which benefited the torturers or the State. In face of that phenomenon, the Committee against Torture must react firmly.

31. Mr. CAMARA also dwelt on the phenomenon of impunity, which must be analysed in depth if the problems involved were to be solved. It existed in two forms. The first resulted from amnesties which, while generally constituting an element in a process of democratization, led to impunity for the torturers. Perpetrators could also have the benefit of a de facto amnesty

granted by reconciliation commissions, whereby no proceedings were taken against a torturer on condition that he publicly admitted his crime. The other form of impunity resulted from there being no prosecution, either because the crime of torture was not recognized in the national legislation, or because of lack of political will to punish torturers. The problems must therefore be clearly categorized in order to find appropriate means of combating the various manifestations of impunity.

32. Regarding the joint declaration just adopted, he wondered whether a specific reference to impunity ought not to be added, for example by mentioning the idea of an international criminal court and proposing that the authorities of States parties which failed to meet their obligation to take proceedings against torturers might be brought to court.

33. Finally, he considered that, while the Committee was of course a forum for dialogue, in case of dialogue of the deaf it must become a decision-making organ and if a State party pleading special circumstances, flouted the Convention, remind it of its international obligations.

34. The CHAIRMAN put forward the idea of regularly holding an informal meeting before the opening of each session of the Committee, including whenever possible the Special Rapporteur on torture and a representative of the Voluntary Fund, to exchange information, for example on the number of victims of acts of torture, by nationality. He noted too that the World Health Organization had observer status with the Committee and that, in the context of that agency's efforts to achieve health for all, actions specifically aimed at combating torture might be contemplated. The importance of the after-effects of torture must not be underestimated. Some members of the Committee had brought up the question of amnesties which, while they might sometimes constitute a political solution to delicate problems, did nothing to help in healing the wounds of the victims. Concerning the United Nations International Day in support of the victims of torture, he welcomed the initiative of Mr. Burns in proposing a joint declaration to be read out on 26 June. On that day, there would be an exhibition of creative work by persons who had survived torture; the idea was to sensitize public opinion to torture, with everything that that word could mean.

35. Mr. RODLEY (Commission on Human Rights Special Rapporteur responsible for issues relating to torture), reverting first to the idea put forward by Mr. Wako, who had wondered about how to identify the victims of torture with a view to giving them the benefit of assistance from the United Nations Voluntary Fund for Victims of Torture, said that to the best of his recollection the Fund made payments only through established channels and never directly to the victims. Perhaps encouragement could be given to NGOs, whose activities centred mainly upon reporting of cases of torture, to direct them more towards assisting the victims.

36. With regard to training of police personnel, the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights was getting well into its stride, had drafted manuals, and was fully prepared to organize training programmes of the kind Mr. Wako had in mind.

37. Regarding the various aspects of prevention, Mr. Zupan□i□ had already referred to the inadmissibility of a statement that was established to have been obtained by torture (art. 15 of the Convention). Another aspect, which was not dealt with in the Convention because it had still been under discussion in connection with the drafting of another instrument, was incommunicado detention. By authorizing that form of detention, the authorities of a country were practically encouraging the officials entrusted with obtaining confessions to ill-treat or torture detainees. All necessary efforts must therefore be exerted to induce States to shorten to the utmost the maximum legally authorized period of incommunicado detention.

38. Finally, with regard to the problem of impunity, in the first place he too drew a distinction, in the reports that he was required to prepare for the Commission on Human Rights, between de jure impunity and de facto impunity and he felt somewhat suspicious of countries that pleaded a little too often the exigencies of transition to democracy. Under international law, each State was required to bring to court those responsible for acts of torture and a State could not unilaterally exempt itself from its obligations, which were in that specific instance to hold an inquiry into the facts, to have those responsible brought before the courts, and to see to it that the victims were compensated.

39. The CHAIRMAN said that the experiment just conducted had been worth while and would certainly be repeated in the future.

40. Mr. BURNS (Chairman of the Committee against Torture) reaffirmed for his own part the keen interest he took in the annual reports prepared by the Special Rapporteur and the invaluable help that they afforded the Committee in its work.

41. Mr. Rodley, Mr. Walkate, Mr. Tosevski, Mr. Hatano and Mr. Wako withdrew.

The first part (public) of the meeting rose at 12 noon.

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and Other Cruel, Inhuman
or Degrading Treatment
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COMMITTEE AGAINST TORTURE

Twentieth session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 341st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 May 1998, at 3 p.m.

Chairman: Mr. Burns

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Initial report of Sri Lanka (continued)

* The summary record of the closed part of the meeting appears as document CAT/C/SR.341/Add.1.

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GE.98-16240 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Initial report of Sri Lanka (continued) (CAT/C/28/Add.3)

Conclusions and recommendations of the Committee

1. At the invitation of the Chairman, Mr. Palihakkara, Mr. Yapa, Mr. Grero and Mr. Arachchi (Sri Lanka) resumed their places at the Committee table.

2. Mr. MAVROMMATIS (Country Rapporteur) read out the conclusions and recommendations of the Committee concerning the initial report of Sri Lanka:

"1. The Committee considered the initial report of Sri Lanka (CAT/C/28/Add.3) at its 338th, 339th and 341st meetings, held on 18 and 19 May 1998 (CAT/C/SR.338, 339 and 341) and adopted the following conclusions and recommendations:

A. Introduction

2. Sri Lanka acceded to the Convention against Torture on 3 January 1994 but has not recognized the competence of the Committee to consider communications made in accordance with articles 21 and 22 of the Convention.

3. The Committee expresses appreciation for the report of Sri Lanka, which is consistent with the guidelines for such reports of CAT, for the annexed material and the introduction and replies to questions by its members given by the delegation of the State party.

4. The report which was due in 1995 and submitted more than two years later covers the period from accession to 21 November 1997.

B. Positive aspects

5. The accession to the Convention during extremely difficult times for the country.

6. The adoption of the CAT Act No. 22 of 1994 to give effect to the Convention in accordance with the legal system of the State party.

7. The recent establishment of the Human Rights Commission with several regional offices, including one in Jaffna.

8. The unequivocal position taken by the Supreme Court as well as other courts on the question of torture and the awards of compensation to victims of torture under the fundamental rights jurisdiction of the Supreme Court.

9. Seminars and other work carried out by the International Committee of the Red Cross and the participation of the medical profession in such seminars.

10. The recent accession by the State party to the First Optional Protocol to the International Covenant on Civil and Political Rights.

11. The State party's readiness to cooperate with the Committee in order to comply with the Convention.

12. The support of victims of torture as expressed by both donations to the United Nations Voluntary Fund for the Victims of Torture and support to the Centre for Rehabilitation.

C. Factors and difficulties impeding the application of the provisions of the Convention

13. The Committee takes note of the following:

(a) The State party faces a serious internal situation, but this in no way justifies any violation of the Convention;

(b) A very low per capita income;

(c) The fact that for years in the past police officers appeared to be immune from prosecution.

D. Subjects of concern

14. The Committee is gravely concerned by information on serious violations of the Convention, particularly regarding torture linked with disappearances.

15. The Committee regrets that there were few if any prosecutions or disciplinary proceedings despite continuous Supreme Court warnings and awards of damages to torture victims.

16. The Committee notes the absence, until recently, of independent and effective investigation of scores of allegations of disappearances linked with torture.

17. The Committee noted that, while the CAT Act 24/94 covers most of the provisions of the Convention, there were certain significant omissions.

18. The question of the admissibility under the emergency regulations of confessions is also a matter of concern as well as the absence of strict legislation governing detention consistent with international norms.

E. Recommendations

19. The Committee urges the State party to review the CAT Act 22/94 and other relevant laws in order to ensure complete compliance with the Convention, in particular in respect of: (a) the definition of torture; (b) acts that amount to torture and (c) extradition, return and expulsion.

20. Review the emergency regulations and the prevention of Terrorism Act as well as rules of practice pertaining to detention to ensure that they conform with the provisions of the Convention.

21. Ensure that all allegations of torture, past, present and future, are promptly, independently and effectively investigated and the recommendations implemented without any delay.

22. While continuing to remedy, through compensation, the consequences of torture, due importance should be given to prompt criminal prosecutions and disciplinary proceedings against culprits.

23. Take the necessary measures to ensure that justice is not delayed especially in the cases of trials of people accused of torture.

24. Strengthen the Human Rights Commission and other mechanisms for dealing with torture prevention and investigation, and provide them with all the means that are necessary to ensure their impartiality and effectiveness.

25. Urges the State party to declare in favour of articles 21 and 22 of the Convention.

26. The Committee would be remiss if it did not acknowledge that the Sri Lankan delegation made every effort to make the dialogue with the Committee fruitful, so that thereby the State party would be helped to put an end to violations of this Convention."

3. Mr. PALIHAKKARA (Sri Lanka) thanked the Committee for its constructive conclusions and recommendations; every effort would be made to put them into effect in the future. Sri Lanka would also be improving its reporting procedure.

4. The CHAIRMAN thanked the members of the delegation of Sri Lanka for the cooperative spirit of their dialogue with the Committee.

5. The delegation of Sri Lanka withdrew.

The public part of the meeting was suspended at 3.15 p.m. and resumed at 4.50 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

6. At the invitation of the CHAIRMAN, Mr. BRUNI (Secretary of the Committee) read out the text of a letter drafted by the secretariat to Mr. Dipanda Mouelle, former Chairman:

"On behalf of all the members of the Committee against Torture, and also in my personal capacity, I wish to thank you for the remarkable contribution you made, as a member of the Committee from its creation in November 1987 until the end of your term of office on 31 December 1997, to the struggle against torture and in the cause of respect for human dignity. We have in particular appreciated your active participation and the wisdom you displayed as Vice-Chairman of the Committee from 1988 to 1993 and as Chairman from 1994 to 1997, as also your involvement alongside the then Chairman, Joseph Voyame, in the first investigative mission undertaken by the Committee, in 1992.

"We hope you will carry on your combat against the evil of torture wherever it occurs. We note that your personal commitment to continuing this battle has already been demonstrated by the publication of your brilliantly written book, 'La torture, cette barbarie de l'humanité', which will serve as a reference work for all those striving to bring to an early end the practice of torture.

"Please accept, Sir, the assurances of our highest consideration, and also the expression of our cordial friendship.

[Signed] Peter Burns
Chairman
Committee against Torture"

7. The CHAIRMAN said that, if he heard no objections, he would take it the Committee agreed to his signing the letter on its behalf.

8. It was so decided.

The meeting rose at 4.55 p.m.

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COMMITTEE AGAINST TORTURE

Twentieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 342nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 May 1998, at 10 a.m.

Chairman: Mr. BURNS

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EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

ORGANIZATIONAL AND OTHER MATTERS (continued)

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.342/Add.1.

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GE.98-16278 (E)

The meeting was called to order at 10.05 a.m.

EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS (agenda item 11) (continued)

Report on the ninth meeting of chairpersons of human rights treaty bodies (continued)

1. The CHAIRMAN invited Mr. Sørensen to continue his report on the ninth meeting of chairpersons of human rights treaty bodies which he had begun at the 320th meeting.

2. Mr. SØRENSEN said that the conclusions and recommendations submitted by the Committee to States parties following consideration of their reports was one of the elements by which the outside world assessed its work. They should therefore be drawn up with the utmost attention to detail. The general principle had been to read out the conclusions and recommendations to delegations the day after reports were considered. That meant the rapporteur and the alternate rapporteur would, on average, have 24 hours to draw up the recommendations and present them for comments at a closed meeting.

3. Mr. MAVROMMATIS noted that since certain countries would still regard that time-frame as inadequate, it should be flexible, depending on the reports and countries under consideration.

4. Mr. ZUPANČIČ noted that, although laws and legislation in most European countries were drawn up by university academics, the delegations which appeared before the Committee were not composed of people who drafted codes and laws, but rather of officials from various ministries whose main function was to maintain the established order and protect the image of the State. Possibilities of an in-depth technical dialogue between the Committee and country delegations were therefore limited. As a means of raising the level of the discussions, the Committee could ask delegations very specific legal questions, which would induce States parties to send delegations of a higher level when their subsequent periodic reports were considered.

5. In response to a remark by Mr. MAVROMMATIS concerning the composition of the delegations appearing before the Human Rights Committee, the CHAIRMAN drew the Committee's attention to rule 66 of the rules of procedure, entitled "Attendance by States parties at examination of reports".

6. Mr. SØRENSEN recalled that it had been proposed to group subjects of concern with recommendations under a single heading, as the latter were corollaries of the former.

7. Mr. CAMARA considered that while a subject of concern should indeed correspond to a recommendation, the two types of observations should not necessarily be placed under the same heading.

8. Mr. MAVROMMATIS said that he could think of some subjects of concern which would not inevitably call for a recommendation by the Committee, and that in some cases the State party alone could decide which measures were appropriate.

9. Mr. YAKOVLEV agreed that subjects of concern could be broader in scope than recommendations. Certain historical factors specific to a country could, for example, be subjects of concern without calling for a recommendation by the Committee. On the other hand, questions such as pre-trial or incommunicado detention should be the subject of specific and targeted recommendations.

10. The CHAIRMAN said that, if he understood the general trend emerging in the Committee, most members favoured maintaining two separate headings, namely, "Subjects of concern" and "Recommendations".

11. It was decided to maintain two separate headings.

12. Mr. SØRENSEN said the section on "Factors and difficulties impeding the application of the provisions of the Convention" still had to be discussed. While there was general agreement that it could be omitted in the absence of such factors or difficulties, the question had arisen on several occasions whether the Committee should refrain from mentioning certain factors so that the State party would never have the impression that the Committee, by invoking the constraints faced by the country, dispensed it from its obligations under the Convention.

13. Mr. MAVROMMATIS noted that such factors and difficulties could either be amenable to control by the State or the result of an external situation over which the State had no control.

14. Mr. CAMARA wondered whether such factors should even be referred to in the conclusions and recommendations. When considering the case of Cuba, the Committee had deemed it impossible to exonerate that country on the grounds that it had been subject to an embargo for over 30 years. Similarly, it had recently decided that it could not absolve Israel on the grounds that it was coping with acts of violence. The Committee could not, without contradicting article 2, paragraph 2, of the Convention, declare that certain factors or difficulties impeded the application of the Convention. Perhaps the most senior members of the Committee could describe the Committee's past experience of that question.

15. The CHAIRMAN pointed out that, in the past, reference to factors and difficulties impeding the application of the Convention had never involved even the slightest value judgement. The Committee had merely recognized the existence of certain circumstances, without indicating its approval or disapproval. Recognizing that a State party was confronting certain problems which it had to resolve implied no judgement whatever. Some circumstances were completely neutral, such as a country's size or a total lack of resources, which made it difficult to draw up a report; others, such as an insurrection or war, were mentioned without the matter of approval or disapproval ever being brought up, and much less invoked as a justification.

16. Mr. YAKOVLEV believed there were two types of factors which could impede the application of the Convention, namely, historical, ethnic or geographic factors over which the States had no control, on the one hand and, on the other, factors related to government policy. They should be dealt with in a different way, on the understanding that an insurrection could in no circumstances be used as an excuse for violating the Convention, any more than a state of war could suspend the absolute prohibition of war crimes.

17. Mr. EL MASRY considered that a distinction should be made between minor difficulties, and in particular those involving material or administrative problems which would affect the punctual submission of reports, and difficulties directly connected with the use of torture. In the latter case, absolute vigilance was called for.

18. The CHAIRMAN said the discussion indicated that each situation had to be tackled in a different way, on the understanding that certain factors could sometimes be legitimately invoked. The decision would probably be difficult in a few cases.

19. Mr. SØRENSEN was still of the view that, although the Committee had every right to mention certain factors which it thought impeded application of the Convention if they led to torture it was indispensable to mention that article 2, paragraph 2, of the Convention stipulated that the prohibition of torture was absolute. That was of fundamental importance.

20. The CHAIRMAN suggested, in view of the observations made, the adoption of the following guideline: apart from the few cases in which factors, such as poverty, were purely structural, most of the difficulties in question arose from instability in the State party; the Committee should therefore, while recognizing such difficulties, recall that in any event, under article 2, paragraph 2, of the Convention, the state of necessity should never be invoked to justify failure to observe the provisions of the Convention.

21. It was so decided.

22. Mr. EL MASRY pointed out that in cases where the Committee did not invoke the provisions of article 2, paragraph 2, of the Convention, it should not give the impression that it accepted the factors in question as a justification.

23. The CHAIRMAN concurred, but emphasized that only in extremely rare cases would the Committee mention difficulties without referring to article 2. He thanked Mr. Sørensen for his extremely useful report on the meeting of chairpersons of human rights treaty bodies.

24. Mr. ZUPANČIČ noted that, from a technical standpoint, it could be considered that there were a number of standard questions of importance to the Committee which were valid for all countries, regardless of their level of development, culture or legal system. One example was the 24-hour limit on police custody. A series of such standard questions relating to criminal procedure, the training of police officers and doctors, etc. could be compiled and included in a standard questionnaire to be sent to States parties in accordance with article 19. The Committee would thus have a set of

comparative criteria on the basis of which it could consider the case of each country in a broader and more objective context. The preparation of the questionnaire would, of course, be a delicate matter requiring patience and resources, but it could be regarded as a long-term exercise. It would provide the Committee with an invaluable legal tool enabling it, for example, to assert that police brutality tended to be more frequent in countries where police custody was over 48 hours. It would also provide a general picture of the situation and permit the adoption of a more rational approach.

25. The CHAIRMAN considered that suggestion extremely useful. Several years previously, Mr. Voyame, the Committee's former chairman, had, with the help of the secretariat, drawn up a series of questions of special importance to the Committee which had been sent to States parties to provide them with guidance in preparing their reports. The questionnaire would be distributed to members at the next session so that they could embark upon the process to which Mr. Zupančič had referred.

26. Mr. YAKOVLEV noted that a standard questionnaire should nonetheless leave enough leeway to cover a range of situations which was extremely diverse. A 24-hour police custody limit might not be feasible in an isolated region where it was physically impossible to refer a case to a judge within that period. Moreover, certain countries considered the assize court system to be the only one acceptable, while others preferred another type of court without jury. In short, such standard questions could never have standard answers, and each would have to be considered in the light of the system peculiar to the country under consideration.

27. The CHAIRMAN replied that the Committee must of course be realistic, and that there was no question of expecting standard replies from countries.

28. The meeting was suspended at 11.00 a.m. and resumed at 11.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Letter from Amnesty International to the Committee Chairman concerning the situation in Egypt

29. The CHAIRMAN announced that he had received a letter from Amnesty International dated 6 May 1998 in which, after referring to the recommendations made by the Committee concerning Egypt in 1994 and 1996, it reported allegations of acts of torture which had allegedly taken place since the Committee's inquiry under article 20. It requested the Committee to consider asking Egypt for a supplementary report on the measures it had taken to give effect to the Committee's recommendations following that inquiry. The Committee had at least three possibilities of reacting to the letter. It could acknowledge receipt and, in the light of the information presented, request a supplementary report from the State party. It could also decide that, owing to its workload, it would not consider the situation in Egypt until that question was included in its programme of work. Lastly, since Egypt's third periodic report was already late, rather than requesting an

additional report, the Committee could send a reminder to the Egyptian Government asking it to include replies to the questions raised by Amnesty International in its third periodic report. For his part, he was in favour of the latter solution, which was more consistent with the idea of a continuing dialogue.

30. Mr. SØRENSEN, who had taken part in the mission of inquiry on Egypt in 1996, concurred. The Committee could substantiate its request by pointing out to the Egyptian authorities that it had adopted new guidelines for the preparation of reports of action taken on recommendations made under article 19. In the case of Egypt, it could expand its request and ask for information in respect of the recommendations made under article 20, since they had been published in the Committee's annual report to the General Assembly.

31. The CHAIRMAN added that he could append a copy of Amnesty International's letter to the one he would send to the Egyptian Government, as suggested by Mr. Sørensen, and request the Government's observations on the allegations it contained.

32. Mr. CAMARA believed the Chairman could also request in his letter, in application of rule 66 of the rules of procedure, that the delegation presenting the report to the Committee should consist of specialists with experience in the subjects addressed, so as to ensure that it could reply with precision to the Committee's questions.

33. The CHAIRMAN said that he could indeed make that request after describing the Committee's new guidelines.

34. Mr. MAVROMMATIS asked whether the Committee would be kept informed of the reaction to the letter.

35. The CHAIRMAN confirmed that it would be. If there was no objection, he would take it that the Committee wished him to send a letter to the Egyptian Government as agreed.

36. It was so decided.

The public part of the meeting was suspended at 11.25 a.m. and resumed at 11.50 a.m.

Information concerning Israel

37. Mr. EL MASRY reminded the Committee that it had been informed, by a press release issued by a Palestinian non-governmental human rights organization, that a person who had admitted killing two Palestinian detainees while working for the Israeli security services, and who had been granted a presidential pardon for his act, had recently been appointed deputy adviser to the Israeli Prime Minister on anti-terrorist matters. The non-governmental organization considered that his appointment to that position was tantamount to legitimizing extrajudiciary executions. He would like the Committee to determine whether that information should be forwarded to the State party, together with a request for its observations.

38. Mr. GONZÁLEZ POBLETE considered that there was no provision of the Convention that authorized the Committee to make such a request of a State party. It would amount to challenging a decision by the national authorities which had nothing to do with the application of the Convention, and would thus constitute interference in the internal affairs of the State.

39. Mr. MAVROMMATIS, while acknowledging that the matter was very serious, considered that the Committee, had it wished to do so, should have raised it during the consideration of the second periodic report of Israel, which it had just completed.

40. Mr. SØRENSEN agreed, and added that since no member had raised the question during the consideration of the second periodic report of Israel just a few days earlier, the Committee could not, at the present stage, send a verbal or written communication on the subject to the State party.

41. The CHAIRMAN said he took it that the members of the Committee considered that the question should be left in abeyance for the time being, even if that meant raising it during consideration of Israel's next periodic report.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

42. Mr. EL MASRY, referring to the difficulties raised by the Committee's present procedures which consisted in adopting recommendations and conclusions on the reports submitted by States parties immediately after their consideration, proposed that the recommendations should be adopted at the end of the session, so that Committee members could study the texts in detail once they had been typed and translated into the various working languages.

43. Furthermore, some delegations had complained that the Committee's procedure left them only a few hours to prepare replies to the numerous questions that were posed. Would it be possible for Committee members, through the secretariat, to submit in advance the questions they intended to raise with the States parties whose reports were under consideration, so that the States would have sufficient time to reply in detail?

44. The CHAIRMAN noted, with respect to the second suggestion, that the Committee had already considered a solution of that nature which it had rejected because of the practical problems it would raise. Concerning Mr. El Masry's first proposal, he recalled that the Committee had decided that recommendations and conclusions would in general be studied and adopted the day after the reports were considered. He suggested that the Committee should follow that procedure on a trial basis before considering other solutions.

45. Replying to a question from Mr. EL MASRY, Mr. BRUNI (Secretary of the Committee) indicated that 24 hours would suffice to type up handwritten recommendations and conclusions, but that it would take at least 3 or 4 days to translate them.

46. Mr. SØRENSEN feared that deferring the consideration of recommendations and conclusions to the end of the session could lead to omissions and confusion, and was in favour of maintaining the present procedure.

47. Following an exchange of views between Mr. GONZÁLEZ POBLETE, Mr. MAVROMMATIS and Mr. EL MASRY, the CHAIRMAN said that in future a 48-hour period would elapse between the oral presentation of a State party's report and the Committee's consideration of its recommendations and conclusions on the report.

The meeting rose at 12.25 p.m.